106TH CONGRESS
2D SESSION

S. 2904

To amend the Internal Revenue Code of 1986 to provide tax incentives to encourage the production and use of efficient energy sources, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 21, 2000

Mr. BINGAMAN (for himself, Mr. DASCHLE, Mr. BAUCUS, Mr. BYRD, Mr. BAYH, Mr. LEVIN, Mr. ROCKEFELLER, and Mr. JOHNSON) introduced the following bill; which was read twice and referred to the Committee on Finance

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A BILL

To amend the Internal Revenue Code of 1986 to provide tax incentives to encourage the production and use of efficient energy sources, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Energy Security Tax and Policy Act of 2000''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amend-

ment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—ENERGY-EFFICIENT PROPERTY USED IN BUSINESS

SEC. 101. INCENTIVE FOR DISTRIBUTED GENERATION.

(a) IN GENERAL.—Section 168(e)(3)(E) of the Internal Revenue Code (classifying certain property as 15-year property) is amended by striking ''and'' at the end of clause (ii), striking the period at the end of clause (iii) and inserting '', and'', and by adding the following new clause:

"(iv) any distributed power property.".

(b) CONFORMING AMENDMENTS.—(1) Section 168(i) is amended by adding at the end the following new paragraph:

"(15) DISTRIBUTED POWER PROPERTY.—The term 'distributed power property' means property—

"(A) which is used in the generation of electricity for primary use—

"(i) in nonresidential real or residential rental property used in the taxpayer's trade or business, or

"(ii) in the taxpayer's industrial manufacturing process or plant activity, with a rated total capacity in excess of 500 kilowatts,

"(B) which also may produce usable thermal energy or mechanical power for use in a heating or cooling application, as long as at least 40 percent of the total useful energy produced consists of—

"(i) with respect to assets described in subparagraph (A)(i), electrical power (whether sold or used by the taxpayer), or

''(ii) with respect to assets described in subparagraph (A)(ii), electrical power (whether sold or used by the taxpayer) and thermal or mechanical energy used in the taxpayer's industrial manufacturing process or plant activity,

''(C) which is not used to transport primary fuel to the generating facility or to distribute energy within or outside of the facility, and

''(D) where it is reasonably expected that not more than 50 percent of the produced electricity will be sold to, or used by, unrelated persons.

For purposes of subparagraph (B), energy output is determined on the basis of expected annual output levels, measured in British thermal units (Btu), using standard conversion factors established by the Secretary.''.

(2) Subparagraph (B) of section 168(g)(3) is amended by inserting after the item relating to subparagraph (E)(iii) in the table contained therein the following new line:

''(E)(iv) 22''.

(c) EFFECTIVE DATE.—The amendments made by this section are effective for property placed in service on or after December 31, 2000.

SEC. 102. CREDIT FOR CERTAIN ENERGY-EFFICIENT PROPERTY USED IN BUSINESS.

(a) IN GENERAL.—Subpart E of part IV of subchapter A of chapter 1 (relating to rules for computing investment credit) is amended by inserting after section 48 the following:

"SEC. 48A. ENERGY CREDIT.

''(a) IN GENERAL.—For purposes of section 46, the energy credit for any taxable year is the sum of—

''(1) the amount equal to the energy percentage of the basis of each energy property placed in service during such taxable year, and

''(2) the credit amount for each qualified hybrid vehicle placed in service during the taxable year.

''(b) ENERGY PERCENTAGE.—

''(1) IN GENERAL.—The energy percentage is—

''(A) except as otherwise provided in this subparagraph, 10 percent,

''(B) in the case of energy property described in clauses (i), (iii), (vi), and (vii) of subsection (c)(1)(A), 20 percent,

''(C) in the case of energy property described in subsection (c)(1)(A)(v), 15 percent, and

''(D) in the case of energy property described in subsection (c)(1)(A)(ii) relating to a high risk geothermal well, 20 percent.

''(2) COORDINATION WITH REHABILITATION.—The energy percentage shall not apply to that portion of the basis of any property which is attributable to qualified rehabilitation expenditures.

''(c) ENERGY PROPERTY DEFINED.—

''(1) IN GENERAL.—For purposes of this subpart, the term 'energy property' means any property—

''(A) which is—

''(i) solar energy property,

''(ii) geothermal energy property,

''(iii) energy-efficient building property,

''(iv) combined heat and power system property,

''(v) low core loss distribution transformer property,

''(vi) qualified anaerobic digester property, or

"(vii) qualified wind energy systems equipment property,

"(B)(i) the construction, reconstruction, or erection of which is completed by the taxpayer, or

"(ii) which is acquired by the taxpayer if the original use of such property commences with the taxpayer.

"(C) which can reasonably be expected to remain in operation for at least 5 years,

"(D) with respect to which depreciation (or amortization in lieu of depreciation) is allowable, and

"(E) which meets the performance and quality standards (if any) which—

"(i) have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy), and

"(ii) are in effect at the time of the acquisition of the property.

"(2) EXCEPTIONS.—

"(A) PUBLIC UTILITY PROPERTY.—Such term shall not include any property which is public utility property (as defined in section 46(f)(5) as in effect on the day before the date

of the enactment of the Revenue Reconciliation Act of 1990), except for property described in paragraph (1)(A)(iv).

''(B) CERTAIN WIND EQUIPMENT.—Such term shall not include equipment described in paragraph (1)(A)(vii) which is taken into account for purposes of section 45 for the taxable year.

''(d) DEFINITIONS RELATING TO TYPES OF ENERGY PROPERTY.—For purposes of this section—

''(1) SOLAR ENERGY PROPERTY.—

''(A) IN GENERAL.—The term 'solar energy property' means equipment which uses solar energy to generate electricity, to heat or cool (or provide hot water for use in) a structure, or to provide solar process heat.

''(B) SWIMMING POOLS, ETC. USED AS STORAGE MEDIUM.—The term 'solar energy property' shall not include property with respect to which expenditures are properly allocable to a swimming pool, hot tub, or any other energy storage medium which has a function other than the function of such storage.

''(C) SOLAR PANELS.—No solar panel or other property installed as a roof (or portion

thereof) shall fail to be treated as solar energy property solely because it constitutes a structural component of the structure on which it is installed.

''(2) GEOTHERMAL ENERGY PROPERTY.—

''(A) IN GENERAL.—The term 'geothermal energy property' means equipment used to produce, distribute, or use energy derived from a geothermal deposit (within the meaning of section 613(e)(2)), but only, in the case of electricity generated by geothermal power, up to (but not including) the electrical transmission stage.

''(B) HIGH RISK GEOTHERMAL WELL.—The term 'high risk geothermal well' means a geothermal deposit (within the meaning of section 613(e)(2)) which requires high risk drilling techniques. Such deposit may not be located in a State or national park or in an area in which the relevant State park authority or the National Park Service determines the development of such a deposit will negatively impact on a State or national park.

''(3) ENERGY-EFFICIENT BUILDING PROPERTY.—

"(A) IN GENERAL.—The term 'energy-efficient building property' means—

"(i) a fuel cell that—

"(I) generates electricity and heat using an electrochemical process,

"(II) has an electricity-only generation efficiency greater than 35 percent, and

"(III) has a minimum generating capacity of 5 kilowatts,

"(ii) an electric heat pump hot water heater that yields an energy factor of 1.7 or greater under standards prescribed by the Secretary of Energy,

"(iii) an electric heat pump that has a heating system performance factor (HSPF) of 9 or greater and a cooling seasonal energy efficiency ratio (SEER) of 13.5 or greater,

"(iv) a natural gas heat pump that has a coefficient of performance of not less than 1.25 for heating and not less than 0.60 for cooling,

"(v) a central air conditioner that has a cooling seasonal energy efficiency ratio (SEER) of 13.5 or greater,

"(vi) an advanced natural gas water heater that—

"(I) increases steady state efficiency and reduces standby and vent losses, and

"(II) has an energy factor of at least 0.65,

"(vii) an advanced natural gas furnace that achieves a 95 percent AFUE, and

"(viii) natural gas cooling equipment—

"(I) that has a coefficient of performance of not less than .60, or

"(II) that uses desiccant technology and has an efficiency rating of 40 percent.

"(B) LIMITATIONS.—The credit under subsection (a)(1) for the taxable year may not exceed—

''(i) $500 in the case of property described in subparagraph (A) other than clauses (i) and (iv) thereof,

''(ii) $500 for each kilowatt of capacity in the case of a fuel cell described in subparagraph (A)(i), and

''(iii) $1,000 in the case of a natural gas heat pump described in subparagraph (A)(iv).

''(4) COMBINED HEAT AND POWER SYSTEM PROPERTY.—

''(A) IN GENERAL.—The term 'combined heat and power system property' means property—

''(i) comprising a system for the same energy source for the simultaneous or sequential generation of electrical power, mechanical shaft power, or both, in combination with steam, heat, or other forms of useful energy,

''(ii) that has an electrical capacity of more than 50 kilowatts or a mechanical energy capacity of more than 67 horsepower or an equivalent combination of elec-

trical and mechanical energy capacities, and

"(iii) that produces at least 20 percent of its total useful energy in the form of both thermal energy and electrical or mechanical power.

"(B) ACCOUNTING RULE FOR PUBLIC UTILITY PROPERTY.—In the case that combined heat and power system property is public utility property (as defined in section 46(f)(5) as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990), the taxpayer may only claim the credit under subsection (a)(1) if, with respect to such property, the taxpayer uses a normalization method of accounting.

"(5) LOW CORE LOSS DISTRIBUTION TRANSFORMER PROPERTY.—The term 'low core loss distribution transformer property' means a distribution transformer which has energy savings from a highly efficient core of at least 20 percent more than the average for power ratings reported by studies required under section 124 of the Energy Policy Act of 1992.

''(6) QUALIFIED ANAEROBIC DIGESTER PROPERTY.—The term 'qualified anaerobic digester property' means an anaerobic digester for manure or crop waste that achieves at least 65 percent efficiency measured in terms of the fraction of energy input converted to electricity and useful thermal energy.

''(7) QUALIFIED WIND ENERGY SYSTEMS EQUIPMENT PROPERTY.—The term 'qualified wind energy systems equipment property' means wind energy systems equipment with a turbine size of not more than 50 kilowatts rated capacity.

''(e) QUALIFIED HYBRID VEHICLES.—For purposes of subsection (a)(2)—

''(1) CREDIT AMOUNT.—

''(A) IN GENERAL.—The credit amount for each qualified hybrid vehicle with a rechargeable energy storage system that provides the applicable percentage of the maximum available power shall be the amount specified in the following table:

"Applicable percentage greater than or equal to—(Percent)	Less than—(Percent)	Credit amount is:
5	10	$500
10	20	1,000
20	30	1,500
30	.....	2,000

''(B) INCREASE IN CREDIT AMOUNT FOR REGENERATIVE BRAKING SYSTEM.—In the case of a qualified hybrid vehicle that actively employs a regenerative braking system which supplies to the rechargeable energy storage system the applicable percentage of the energy available from braking in a typical 60 miles per hour to 0 miles per hour braking event, the credit amount determined under subparagraph (A) shall be increased by the amount specified in the following table:

"Applicable percentage greater than or equal to— (Percent)	Less than— (Percent)	Credit amount increase is:
20	40	$250
40	60	500
60	.....	1,000

''(2) QUALIFIED HYBRID VEHICLE.—The term 'qualified hybrid vehicle' means an automobile that meets all regulatory requirements applicable to gasoline-powered automobiles and that can draw propulsion energy from both of the following on-board sources of stored energy:

''(A) A consumable fuel.

''(B) A rechargeable energy storage system, provided that the automobile is at least

33% more efficient than the average vehicle in its vehicle characterization as defined by EPA.

''(3) MAXIMUM AVAILABLE POWER.—The term 'maximum available power' means the maximum value of the sum of the heat engine and electric drive system power or other non-heat energy conversion devices available for a driver's command for maximum acceleration at vehicle speeds under 75 miles per hour.

''(4) AUTOMOBILE.—The term 'automobile' has the meaning given such term by section 4064(b)(1) (without regard to subparagraphs (B) and (C) thereof). A vehicle shall not fail to be treated as an automobile solely by reason of weight if such vehicle is rated at 8,500 pounds gross vehicle weight rating or less.

''(5) DOUBLE BENEFIT; PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowed under subsection (a)(2) with respect to—

''(A) any property for which a credit is allowed under section 25B or 30,

''(B) any property referred to in section 50(b), and

''(C) the portion of the cost of any property taken into account under section 179 or 179A.

''(6) REGULATIONS.—

''(A) TREASURY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection.

''(B) ENVIRONMENTAL PROTECTION AGENCY.—The Administrator of the Environmental Protection Agency shall prescribe such regulations as may be necessary or appropriate to specify the testing and calculation procedures that would be used to determine whether a vehicle meets the qualifications for a credit under this subsection.

''(7) TERMINATION.—Paragraph (2) shall not apply with respect to any vehicle placed in service during a calendar year ending before January 1, 2003, or after December 31, 2006.

''(f) SPECIAL RULES.—For purposes of this section—

''(1) SPECIAL RULE FOR PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING OR INDUSTRIAL DEVELOPMENT BONDS.—

''(A) REDUCATION OF BASIS.—For purposes of applying the energy percentage to any property, if such property is financed in whole or in part by—

''(i) subsidized energy financing, or

''(ii) the proceeds of a private activity bond (within the meaning of section 141) the interest on which is exempt from tax under section 103, the amount taken into account as the basis of such property shall not exceed the amount which (but for this subparagraph) would be so taken into account multiplied by the fraction determined under subparagraph (B).

''(B) DETERMINATION OF FRACTION.—For purposes of subparagraph (A), the fraction determined under this subparagraph is 1 reduced by a fraction—

''(i) the numerator of which is that portion of the basis of the property which is allocable to such financing or proceeds, and

''(ii) the denominator of which is the basis of the property.

''(C) SUBSIDIZED ENERGY FINANCING.—For purposes of subparagraph (A), the term 'subsidized energy financing' means financing provided under a Federal, State, or local program a principal purpose of which is to provide subsidized financing for projects designed to conserve or produce energy.

''(2) CERTAIN PROGRESS EXPENDITURE RULES MADE APPLICABLE.—Rules similar to the rules of subsections (c)(4) and (d) of section 46 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of this section.

''(g) APPLICATION OF SECTION.—

''(1) IN GENERAL.—Except as provided by paragraph (2) and subsection (e), this section shall apply to property placed in service after December 31, 2000, and before January 1, 2004.

''(2) EXCEPTIONS.—

''(A) SOLAR ENERGY AND GEOTHERMAL ENERGY PROPERTY.—Paragraph (1) shall not apply to solar energy property or geothermal energy property.

''(B) FUEL CELL PROPERTY.—In the case of property that is a fuel cell described in sub-

section (d)(3)(A)(i), this section shall apply to property placed in service after December 31, 2000, and before January 1, 2005.''

(b) CONFORMING AMENDMENTS.—

(1) Section 48 is amended to read as follows:

''SEC. 48. REFORESTATION CREDIT.

''(a) IN GENERAL.—For purposes of section 46, the reforestation credit for any taxable year is 20 percent of the portion of the amortizable basis of any qualified timber property which was acquired during such taxable year and which is taken into account under section 194 (after the application of section 194(b)(1)).

''(b) DEFINITIONS.—For purposes of this subpart, the terms 'amortizable basis' and 'qualified timber property' have the respective meanings given to such terms by section 194.''

(2) Section 39(d) is amended by adding at the end the following:

''(9) NO CARRYBACK OF ENERGY CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the energy credit determined under section 48A may be carried back to a taxable year ending before the date of the enactment of section 48A.''

(3) Section 280C is amended by adding at the end the following:

''(d) CREDIT FOR ENERGY PROPERTY EXPENSES.—

''(1) IN GENERAL.—No deduction shall be allowed for that portion of the expenses for energy property (as defined in section 48A(c)) otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for such taxable year under section 48A(a).

''(2) SIMILAR RULE WHERE TAXPAYER CAPITALIZES RATHER THAN DEDUCTS EXPENSES.—If—

''(A) the amount of the credit allowable for the taxable year under section 48A (determined without regard to section 38(c)), exceeds

''(B) the amount allowable as a deduction for the taxable year for expenses for energy property (determined without regard to paragraph (1)), the amount chargeable to capital account for the taxable year for such expenses shall be reduced by the amount of such excess.

''(3) CONTROLLED GROUPS.—Paragraph (3) of subsection (b) shall apply for purposes of this subsection.''

(4) Section 29(b)(3)(A)(i)(III) is amended by striking 'section 48(a)(4)(C)' and inserting 'section 48A(f)(1)(C)'.

(5) Section 50(a)(2)(E) is amended by striking 'section 48(a)(5)' and inserting 'section 48A(f)(2)'.

(6) Section 168(e)(3)(B) is amended—

(A) by striking clause (vi)(I) and inserting the following:

''(I) is described in paragraph (1) or (2) of section 48A(d) (or would be so described if 'solar and wind' were substituted for 'solar' in paragraph (1)(B)),'', and

(B) in the last sentence by striking ''section 48(a)(3)'' and inserting ''section 48A(c)(2)(A)''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 48 and inserting the following:

''Sec. 48. Reforestation credit.
''Sec. 48A. Energy credit.''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2000, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as

in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 103. ENERGY EFFICIENT COMMERCIAL BUILDING PROPERTY DEDUCTION.

''(a) IN GENERAL.—There shall be allowed as a deduction for the taxable year an amount equal to the sum of the energy efficient commercial building amount determined under subsection (b).

''(b)(1) DEDUCTION ALLOWED.—For purposes of subsection (a)—

''(A) IN GENERAL.—The energy efficient commercial building property deduction determined under this subsection is an amount equal to energy efficient commercial building property expenditures made by a taxpayer for the taxable year.

''(B) MAXIMUM AMOUNT OF DEDUCTION.—The amount of energy efficient commercial building property expenditures taken into account under subparagraph (A) shall not exceed an amount equal to the product of—

''(i) $2.25, and

''(ii) the square footage of the building with respect to which the expenditures are made.

''(C) YEAR DEDUCTION ALLOWED.—The deduction under subparagraph (A) shall be allowed in the taxable year in which the construction of the building is completed.

''(2) ENERGY EFFICIENT COMMERCIAL BUILDING PROPERTY EXPENDITURES.—For purposes of this subsection, the term 'energy efficient commercial building property expenditures' means an amount paid or incurred for energy efficient commercial building property installed on or in connection with new construction or reconstruction of property—

''(A) for which depreciation is allowable under section 167,

''(B) which is located in the United States, and

''(C) the construction or erection of which is completed by the taxpayer.

Such property includes all residential rental property, including low-rise multifamily structures and single family housing property which is not within the scope of Standard 90.1–1999 (described in paragraph (3)). Such term includes expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property.

''(3) ENERGY EFFICIENT COMMERCIAL BUILDING PROPERTY.—For purposes of paragraph (2)—

''(A) IN GENERAL.—The term 'energy efficient commercial building property' means any property which reduces total annual energy and power costs with respect to the lighting, heating, cooling, ventilation, and hot water supply systems of the building by 50 percent or more in comparison to a reference building which meets the requirements of Standard 90.1–1999 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America using methods of calculation under subparagraph (B) and certified by qualified professionals as provided under paragraph (6).

''(B) METHODS OF CALCULATION.—The Secretary, in consultation with the Secretary of Energy, shall promulgate regulations which describe in detail methods for calculating and verifying energy and power consumption and cost, taking into consideration the provisions of the 1998 California Nonresidential ACM Manual. These procedures shall meet the following requirements:

''(i) In calculating tradeoffs and energy performance, the regulations shall prescribe the costs per unit of energy and power, such as kilowatt hour, kilowatt, gallon of fuel oil, and

cubic foot or Btu of natural gas, which may be dependent on time of usage.

''(ii) The calculational methodology shall require that compliance be demonstrated for a whole building. If some systems of the building, such as lighting, are designed later than other systems of the building, the method shall provide that either—

''(I) the expenses taken into account under paragraph (1) shall not occur until the date designs for all energy-using systems of the building are completed,

''(II) the energy performance of all systems and components not yet designed shall be assumed to comply minimally with the requirements of such Standard 90.1–1999, or

''(III) the expenses taken into account under paragraph (1) shall be a fraction of such expenses based on the performance of less than all energy-using systems in accordance with clause (iii).

''(iii) The expenditures in connection with the design of subsystems in the building, such as the envelope, the heating, ventilation, air

conditioning and water heating system, and the lighting system shall be allocated to the appropriate building subsystem based on system-specific energy cost savings targets in regulations promulgated by the Secretary of Energy which are equivalent, using the calculation methodology, to the whole building requirement of 50 percent savings.

''(iv) The calculational methods under this subparagraph need not comply fully with section 11 of such Standard 90.1–1999.

''(v) The calculational methods shall be fuel neutral, such that the same energy efficiency features shall qualify a building for the deduction under this subsection regardless of whether the heating source is a gas or oil furnace or an electric heat pump.

''(vi) The calculational methods shall provide appropriate calculated energy savings for design methods and technologies not otherwise credited in either such Standard 90.1–1999 or in the 1998 California Nonresidential ACM Manual, including the following:

''(I) Natural ventilation.

''(II) Evaporative cooling.

''(III) Automatic lighting controls such as occupancy sensors, photocells, and timeclocks.

''(IV) Daylighting.

''(V) Designs utilizing semi-conditioned spaces that maintain adequate comfort conditions without air conditioning or without heating.

''(VI) Improved fan system efficiency, including reductions in static pressure.

''(VII) Advanced unloading mechanisms for mechanical cooling, such as multiple or variable speed compressors.

''(VIII) The calculational methods may take into account the extent of commissioning in the building, and allow the taxpayer to take into account measured performance that exceeds typical performance.

''(C) COMPUTER SOFTWARE.—

''(i) IN GENERAL.—Any calculation under this paragraph shall be prepared by qualified computer software.

''(ii) QUALIFIED COMPUTER SOFTWARE.—For purposes of this subparagraph, the term 'qualified computer software' means software—

''(I) for which the software designer has certified that the software meets all procedures and detailed methods for caculating energy and power consumption and costs as required by the Secretary.

''(II) which provides such forms as required to be filed by the Secretary in connection with energy efficiency of property and the deduction allowed under this subsection, and

''(III) which provides a notice form which summarizes the energy efficiency features of the building and its projected annual energy costs.

''(4) ALLOCATION OF DEDUCTION FOR PUBLIC PROPERTY.—In the case of energy efficient commercial building property installed on or in public property, the Secretary shall promulgate a regulation to allow the allocation of the deduction to the person primarily responsible for designing the property in lieu of the public entity which is the owner of such property. Such person shall be treated as the tax payer for purposes of this subsection.

''(5) NOTICE TO OWNER.—The qualified individual shall provide an explanation to the owner of the building regarding the energy efficiency features of the building and its projected annual energy costs as provided in the notice under paragraph (3)(C)(ii)(III).

''(6) CERTIFICATION.—

''(A) IN GENERAL.—Except as provided in this paragraph, the Secretary, in consultation with the Secretary of Energy, shall establish requirements for certification and compliance procedures similar to the procedures under section 25B(c)(7).

''(B) QUALIFIED INDIVIDUALS.—Individuals qualified to determine compliance shall be only those individuals who are recognized by an organization certified by the Secretary for such purposes.

''(C) PROFICIENCY OF QUALIFIED INDIVIDUALS.—The Secretary shall consult with nonprofit organizations and State agencies with expertise in energy efficiency calculations and inspections to develop proficiency tests and training programs to qualify individuals to determine compliance.

''(g) TERMINATION.—This section shall not apply with respect to—

''(1) any energy property placed in service before December 31, 2000, and after December 31, 2006, and

''(2) any energy efficient commercial building property expenditures in connection with property—

''(A) the plans for which are not certified under subsection (f)(6) on or before December 31, 2006, and

''(B) the construction of which is not completed on or before December 31, 2008.''

TITLE II—NONBUSINESS ENERGY SYSTEMS

SEC. 201. CREDIT FOR CERTAIN NONBUSINESS ENERGY SYSTEMS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 25A the following:

''SEC. 25B. NONBUSINESS ENERGY PROPERTY.

''(a) ALLOWANCE OF CREDIT.—

''(1) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(A) the applicable percentage of residential energy property expenditures made by the taxpayer during such year,

"(B) the credit amount (determined under section 48A(e)) for each vehicle purchased during the taxable year which is a qualified hybrid vehicle (as defined in section 48A(e)(2)), and

"(C) the credit amount specified in the following table for a new, highly energy-efficient principal residence:

In the case of:	The credit amount is:	For the period: Beginning on:	For the period: Ending on:
30 percent property	$1,000	1/1/2001	12/31/2002
50 percent property	$2,000	1/1/2001	12/31/2004.

In the case of any new, highly energy-efficient principal residence, the credit amount shall be zero for any period for which a credit amount is not specified for such property in the table under subparagraph (C).

"(2) APPLICABLE PERCENTAGE.—

"(A) IN GENERAL.—The applicable percentage shall be determined in accordance with the following table:

In the case of:	Percentage is:	For the period: Beginning on:	For the period: Ending on:
20% energy-eff. bldg. prop	20	1/1/2001	12/31/2004

In the case of:	Percentage is:	For the period: Beginning on:	For the period: Ending on:
10% energy-eff. bldg. prop	10	1/1/2001	12/31/2002
Solar water heating property	15	1/1/2001	12/31/2007
Photovoltaic property	15	1/1/2001	12/31/2007.

"(B) PERIODS FOR WHICH PERCENTAGE NOT SPECIFIED.—In the case of any residential energy property, the applicable percentage shall be zero for any period for which an applicable percentage is not specified for such property under subparagraph (A).

"(b) MAXIMUM CREDIT.—

"(1) IN GENERAL.—In the case of property described in the following table, the amount of the credit allowed under subsection (a)(1)(A) for the taxable year for each item of such property with respect to a dwelling unit shall not exceed the amount specified for such property in such table:

Description of property item:	Maximum allowable credit amount is:
20 percent energy-efficient building property (other than a fuel cell or natural gas heat pump).	$500.
20 percent energy-efficient building property fuel cell described in section 48A(d)(3)(A)(i).	$500 per each kw/hr of capacity.
Natural gas heat pump described in section 48A(d)(3)(D)(iv).	$1,000.
10 percent energy-efficient building property.	$250.
Solar water heating property	$1,000.
Photovoltaic property	$2,000.

(2) COORDINATION OF LIMITATIONS.—If a credit is allowed to the taxpayer for any taxable year

by reason of an acquisition of a new, highly energy-efficient principal residence, no other credit shall be allowed under subsection (a)(1)(A) with respect to such residence during the 1-taxable year period beginning with such taxable year.

''(c) DEFINITIONS.—For purposes of this section—

''(1) RESIDENTIAL ENERGY PROPERTY EXPENDITURES.—The term 'residential energy property expenditures' means expenditures made by the taxpayer for qualified energy property installed on or in connection with a dwelling unit which—

''(A) is located in the United States, and

''(B) is used by the taxpayer as a residence.

Such term includes expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property.

''(2) QUALIFIED ENERGY PROPERTY.—

''(A) IN GENERAL.—The term 'qualified energy property' means—

''(i) energy-efficient building property,

''(ii) solar water heating property, and

''(iii) photovoltaic property.

''(B) SWIMMING POOL, ETC., USED AS STORAGE MEDIUM; SOLAR PANELS.—For pur-

poses of this paragraph, the provisions of subparagraphs (B) and (C) of section 48A(d)(1) shall apply.

''(3) ENERGY-EFFICIENT BUILDING PROPERTY.—The term 'energy-efficient building property' has the meaning given to such term by section 48A(e)(3).

''(4) SOLAR WATER HEATING PROPERTY.—The term 'solar water heating property' means property which, when installed in connection with a structure, uses solar energy for the purpose of providing hot water for use within such structure.

''(5) PHOTOVOLTAIC PROPERTY.—The term 'photovoltaic property' means property which, when installed in connection with a structure, uses a solar photovoltaic process to generate electricity for use in such structure.

''(6) NEW, HIGHLY ENERGY-EFFICIENT PRINCIPAL RESIDENCE.—

''(A) IN GENERAL.—Property is a new, highly energy-efficient principal residence if—

''(i) such property is located in the United States,

''(ii) the original use of such property commences with the taxpayer and is, at

the time of such use, the principal residence of the taxpayer, and

''(iii) such property is certified before such use commences as being 50 percent property or 30 percent property.

''(B) 50 OR 30 PERCENT PROPERTY.—

''(i) IN GENERAL.—For purposes of subparagraph (A), property is 50 percent property or 30 percent property if the projected energy usage of such property is reduced by 50 percent or 30 percent, respectively, compared to the energy usage of a reference house that complies with minimum standard practice, such as the 1998 International Energy Conservation Code of the International Code Council, as determined according to the requirements specified in clause (ii).

''(ii) PROCEDURES.—

''(I) IN GENERAL.—For purposes of clause (i), energy usage shall be demonstrated either by a component-based approach or a performance-based approach.

"(II) COMPONENT APPROACH.—Compliance by the component approach is achieved when all of the components of the house comply with the requirements of prescriptive packages established by the Secretary of Energy, in consultation with the Administrator of the Environmental Protection Agency, such that they are equivalent to the results of using the performance-based approach of subclause (III) to achieve the required reduction in energy usage.

"(III) PERFORMANCE-BASED APPROACH.—Performance-based compliance shall be demonstrated in terms of the required percentage reductions in projected energy use. Computer software used in support of performance-based compliance must meet all of the procedures and methods for calculating energy savings reductions that are promulgated by the Secretary of Energy. Such regulations on the specifications for software shall be

based in the 1998 California Residential Alternative Calculation Method Approval Manual, except that the calculation procedures shall be developed such that the same energy efficiency measures qualify as a home for tax credits regardless of whether the home uses a gas or oil furnace or boiler, or an electric heat pump.

''(IV) APPROVAL OF SOFTWARE SUBMISSIONS.—The Secretary of Energy shall approve software submissions that comply with the calculation requirements of subclause (III).

''(C) DETERMINATIONS OF COMPLIANCE.—A determination of compliance made for the purposes of this paragraph shall be filed with the Secretary of Energy within 1 year of the date of such determination and shall include the TIN of the certifer, the address of the building in compliance, and the identity of the person for whom such determination was performed. Determinations of compliance filed within the Secretary of Energy shall be available for inspection by the Secretary.

''(D) COMPLIANCE.—

''(i) IN GENERAL.—The Secretary of Energy in consultation with the Secretary of the Treasury shall establish requirements for certification and compliance procedures after examining the requirements for energy consultants and home energy ratings providers specified by the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems.

''(ii) INDIVIDUALS QUALIFIED TO DETERMINE COMPLIANCE.—Indivdiuals qualified to determine compliance shall be only those individuals who are recognized by an organization certified by the Secretary of Energy for such purposes.

''(E) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 121, except that the period for which a building is treated as the principal residence of the taxpayer shall also include the 60-day period ending on the 1st day on which it would (but for this subparagraph) first be treated as the taxpayer's principal residence.

''(d) SPECIAL RULES.—For purposes of this section—

''(1) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which if jointly occupied and used during any calendar year as a residence by 2 or more individuals the following shall apply:

''(A) The amount of the credit allowable under subsection (a) by reason of expenditures made during each calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as 1 taxpayer whose taxable year is such calendar year.

''(B) There shall be allowable with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individuals during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

''(2) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having made his tenant-stockholder's proportinate share (as defined in section 216(b)(3)) of any expenditures of such corporation.

''(3) CONDOMINIUMS.—

''(A) IN GENERAL.—In the case of an individiual who is a member of a condominium management association with respect to a condominium which the individual owns, such individual shall be treated as having made his proportionate share of any expenditures of such association.

''(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purpose of this paragraph, the 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominimum project substantially all of the units of which are used as residences.

''(4) JOINT OWNERSHIP OF ENERGY ITEMS.—

''(A) IN GENERAL.—Any expenditure otherwise qualifying as a residential energy property expenditure shall not be treated as failing to so qualify merely because such expenditure was made with respect to 2 or more dwelling units.

''(B) LIMITS APPLIED SEPARATELY.—In the case of any ependiture described in subparagraph (A), the amount of the credit allowable under subsection (a) shall (subject to paragraph (1)) be computed separately with respect to the amount of the expenditure made for each dwelling unit.

''(5) ALLOCATION IN CERTAIN CASES.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), if less than 80 percent of the use of an item as for nonbusiness purposes, only that portion of the expenditures for such item which is properly allocable to use for nonbusiness purposes shall be taken into account. For purposes of this paragraph, use for a swimming pool shall be treated as use which is not for nonbusiness purposes.

''(B) SPECIAL RULE FOR VEHICLES.—For purposes of this section and section 48A, a ve-

hicle shall be treated as used entirely for business or nonbusiness purposes if the majority of the use of such vehicle is for business or nonbusiness purposes, as the case may be.

''(6) DOUBLE BENEFIT; PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowed under subsection (a)(1)(B) with respect to—

''(A) any property for which a credit is allowed under section 30 or 48A.

''(B) any property referrerd to in section 50(b), and

''(C) the portion of the cost of any property taken into account under section 179 or 179A.

''(7) WHEN EXPENDITURE MADE; AMOUNT OF EXPENDITURE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), an expenditure with respect to an item shall be treated as made when the original installation of the item is completed.

''(B) EXPENDITURES PART OF BUILDING CONSTRUCTION.—In the case of an expenditure in connection with the construction of a structure, such expenditure shall be treated as made

when the original use of the constructed structure by the taxpayer begins.

''(C) AMOUNT.—The amount of any expenditure shall be the cost thereof.

''(8) PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING.—

''(A) REDUCTION OF EXPENDITURES.—For purposes of determining the amount of residential energy property expenditures made by any individual with respect to any dwelling unit, there shall not be taken in to account expenditures which are made from subsidized energy financing (as defined in section 48A(f)(1)(C)).

''(B) DOLLAR LIMITS REDUCED.—The dollar amounts in the table contained in subsection (b)(1) with respect to each property purchased for such dwelling unit for any taxable year of such taxpayer shall be reduced proportionately by an amount equal to the sum of—

''(i) the amount of the expenditures made by the taxpayer during such taxable year with respect to such dwelling unit and not taken into account by reason of subparagraph (A), and

''(ii) the amount of any Federal, State, or local grant received by the taxpayer during such taxable year which is used to make residential energy property expenditures with respect to the dwelling unit and is not included in the gross income of such taxpayer.

''(9) SAFETY CERTIFICATIONS.—No credit shall be allowed under this section for an item of property unless—

''(A) in the case of solar water heating property, such property is certified for performance and safety by the non-profit Solar Rating Certification Corporation or a comparable entity endorsed by the government of the State in which such property is installed, and

''(B) in the case of photovoltaic property, such property meets appropriate fire and electric code requirements.

''(e) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.''

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking ''and'' at the end of paragraph (26), by striking the period at the end of paragraph (27) and inserting ''; and'', and by adding at the end the following:

''(28) to the extent provided in section 25B(e), in the case of amounts with respect to which a credit has been allowed under section 25B.''

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25A the following:

''Sec. 25B. Nonbusiness energy property.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures after December 31, 2000.

TITLE III—ALTERNATIVE FUELS

SEC. 301. ALLOCATION OF ALCOHOL FUELS CREDIT TO PATRONS OF A COOPERATIVE.

(a) IN GENERAL.—Section 40(d) (relating to alcohol used as fuel) is amended by adding at the end the following:

''(6) ALLOCATION OF SMALL ETHANOL PRODUCER CREDIT TO PATRONS OF COOPERATIVE.—

''(A) IN GENERAL.—In the case of a cooperative organization described in section

1381(a), any portion of the credit determined under subsection (a)(3) for the taxable year may, at the election of the organization made on a timely filed return (including extensions) for such year, be apportioned pro rata among patrons of the organization on the basis of the quantity or value of business done with or for such patrons for the taxable year. Such an election, once made, shall be irrevocable for such taxable year.

''(B) TREATMENT OF ORGANIZATIONS AND PATRONS.—The amount of the credit apportioned to patrons pursuant to subparagraph (A)—

''(i) shall not be included in the amount determined under subsection (a) for the taxable year of the organization, and

''(ii) shall be included in the amount determined under subsection (a) for the taxable year of each patron in which the patronage dividend for the taxable year referred to in subparagraph (A) is includible in gross income.

''(C) SPECIAL RULE FOR DECREASING CREDIT FOR TAXABLE YEAR.—If the amount of the credit of a cooperative organization determined under subsection (a)(3) for a taxable year is less than the amount of such credit shown on the cooperative organization's return for such year, an amount equal to the excess of such reduction over the amount not apportioned to the patrons under subparagraph (a) for the taxable year shall be treated as an increase in tax imposed by this chapter on the organization. Any such increase shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this subpart or subpart A, B, E, or G of this part.''

(b) TECHNICAL AMENDMENT.—Section 1388 (relating to definitions and special rules for cooperative organizations) is amended by adding at the end the following:

''(k) CROSS REFERENCE.—For provisions relating to the apportionment of the alcohol fuels credit between cooperative organizations and their patrons, see section 40(d)(6).''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

TITLE IV—AUTOMOBILES

SEC. 401. EXTENSION OF CREDIT FOR QUALIFIED ELECTRIC VEHICLES.

(a) EXTENSION OF CREDIT FOR QUALIFIED ELECTRIC VEHICLES.—Subsection (f) of section 30 (relating to termination) is amended by striking ''December 31, 2004'' and inserting ''December 31, 2006''.

(b) REPEAL OF PHASEOUT.—Subsection (b) of section 30 (relating to limitations) is amended by striking paragraph (2) and redesignating paragraph (3) as paragraph (2).

(c) NO DOUBLE BENEFIT.—

(1) Subsection (d) of section 30 (relating to special rules) is amended by adding at the end the following:

''(5) NO DOUBLE BENEFIT.—No credit shall be allowed under subsection (a) with respect to any vehicle if the taxpayer claims a credit for such vehicle under section 25B(a)(1)(B) or 48A(a)(2).''

(2) Paragraph (3) of section 30(d) (relating to property used outside United States, etc., not qualified) is amended by striking ''section 50(b)'' and inserting ''section 25B, 48A, or 50(b)''.

(3) Paragraph (5) of section 179A(e) (relating to property used outside United States, etc., not

qualified) is amended by striking ''section 50(b)'' and inserting ''section 25B, 48A, or 50(b)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2000.

SEC. 402. ADDITIONAL DEDUCTION FOR COST OF INSTALLATION OF ALTERNATIVE FUELING STATIONS.

(a) IN GENERAL.—Subparagraph (A) of section 179A(b)(2) of the Internal Revenue Code of 1986 (relating to qualified clean-fuel vehicle refueling property) is amended to read as follows:

''(A) IN GENERAL.—The aggregate cost which may be taken into account under subsection (a)(1)(B) with respect to qualified clean-fuel vehicle refueling property placed in service during the taxable year at a location shall not exceed the sum of—

''(i) with respect to costs not described in clause (ii), the excess (if any) of—

''(I) $100,000, over

''(II) the aggregate amount of such costs taken into account under subsection (a)(1)(B) by the taxpayer

(or any related person or predecessor) with respect to property placed in service at such location for all preceding taxable years, plus

''(ii) the lesser of—

''(I) the cost of the installation of such property, or

''(II) $30,000.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2000.

SEC. 403. CREDIT FOR RETAIL SALE OF CLEAN BURNING FUELS AS MOTOR VEHICLE FUEL.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by inserting after section 40 the following:

''SEC. 40A. CREDIT FOR RETAIL SALE OF CLEAN BURNING FUELS AS MOTOR VEHICLE FUEL.

''(a) GENERAL RULE.—For purposes of section 38, the clean burning fuel retail sales credit of any taxpayer for any taxable year is 50 cents for each gasoline gallon equivalent of clean burning fuel sold at retail by the taxpayer during such year as a fuel to propel any qualified motor vehicle.

''(b) DEFINITIONS.—For purposes of this section—

''(1) CLEAN BURNING FUEL.—The term 'clean burning fuel' means natural gas, compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, and any liquid at least 85 percent of which consists of methanol.

''(2) GASOLINE GALLON EQUIVALENT.—The term 'gasoline gallon equivalent' means, with respect to any clean burning fuel, the amount (determined by the Secretary) of such fuel having a Btu content of 114,000.

''(3) QUALIFIED MOTOR VEHICLE.—The term 'qualified motor vehicle' means any motor vehicle (as defined in section 179A(e)) which meets any applicable Federal or State emissions standards with respect to each fuel by which such vehicle is designed to be propelled.

''(4) SOLD AT RETAIL.—

''(A) IN GENERAL.—The term 'sold at retail' means the sale, for a purpose other than resale, after manufacture, production, or importation.

''(B) USE TREATED AS SALE.—If any person uses clean burning fuel as a fuel to propel any qualified motor vehicle (including any use

after importation) before such fuel is sold at retail, then such use shall be treated in the same manner as if such fuel were sold at retail as a fuel to propel such vehicle by such person.

''(c) NO DOUBLE BENEFIT.—The amount of the credit determined under subsection (a) shall be reduced by the amount of any deduction or credit allowable under this chapter for fuel taken into account in computing the amount of such credit.

''(d) TERMINATION.—This section shall not apply to any fuel sold at retail after December 31, 2007.''.

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) of the Internal Revenue Code of 1986 (relating to current year business credit) is amended by striking ''plus'' at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting, '', plus'', and by adding at the end the following:

''(13) the clean burning fuel retail sales credit determined under section 40A(a).''.

(c) TRANSITIONAL RULE.—Section 39(d) of the Internal Revenue Code of 1986 (relating to transitional rules) is amended by adding at the end the following:

''(9) NO CARRYBACK OF SECTION 40A CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is

attributable to the clean burning fuel retail sales credit determined under section 40A(a) may be carried back to a taxable year ending before January 1, 2000.''.

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 40 the following:

''Sec. 40A. Credit for retail sale of clean burning fuels as motor vehicle fuel.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold at retail after December 31, 2000, in taxable years ending after such date.

SEC. 404. EXCEPTION TO HOV PASSENGER REQUIREMENTS FOR ALTERNATIVE FUEL VEHICLES.

Section 102(a) of title 23, United States Code, is amended by inserting ''(unless, at the discretion of the State highway department, the vehicle operates on, or is fueled by, an alternative fuel (as defined in section 301 of Public Law 102–486 (42 U.S.C. 13211(2)))'' after ''required''.

TITLE V—CLEAN COAL TECHNOLOGIES

SEC. 501. CREDIT FOR INVESTMENT IN QUALIFFYING CLEAN COAL TECHNOLOGY.

(a) ALLOWANCE OF QUALIFYING CLEAN COAL TECHNOLOGY FACILITY CREDIT.—Section 46 (relating to amount of credit) is amended by striking ''and'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting '', and'', and by adding at the end the following:

''(4) the qualifying clean coal technology facility credit.''

(b) AMOUNT OF QUALIFYING CLEAN COAL TECHNOLOGY FACILITY CREDIT.—Subpart E of part IV of subchapter A of chapter 1 (relating to rules for computing investment credit), as amended by section 101(a), is amended by inserting after section 48A the following:

''SEC. 48B. QUALIFYING CLEAN COAL TECHNOLOGY FACILITY CREDIT.

''(a) IN GENERAL.—For purposes of section 46, the qualifying clean coal technology facility credit for any taxable year is an amount equal to 10 percent of the qualified investment in a qualifying clean coal technology facility for such taxable year.

''(b) QUALIFYING CLEAN COAL TECHNOLOGY FACILITY.—

''(1) IN GENERAL.—For purposes of subsection (a), the term 'qualifying clean coal technology facility' means a facility of the taxpayer—

''(A)(i)(I) which replaces a conventional technology facility of the taxpayer and the original use of which commences with the taxpayer, or

''(II) which is a retrofitted or repowered conventional technology facility, the retrofitting or repowering of which is completed by the taxpayer (but only with respect to that portion of the basis which is properly attributable to such retrofitting or repowering), or

''(ii) that is acquired through purchase (as defined by section 179(d)(2)),

''(B) that is depreciable under section 167,

''(C) that has a useful life of not less than 4 years,

''(D) that is located in the United States, and

''(E) that uses qualifying clean coal technology.

''(2) SPECIAL RULE FOR SALE-LEASEBACKS.—For purposes of subparagraph (A) of paragraph (1), in the case of a facility that—

''(A) is originally placed in service by a person, and

''(B) is sold and leased back by such person, or is leased to such person, within 3 months after the date such facility was originally placed in servcie, for a period of not less than 12 years.

such facility shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback (or lease) referred to in subparagraph (B). The preceding sentence shall not apply to any property if the lessee and lessor of such property make an election under this sentence. Such an election, once made, may be revoked only with the consent of the Secretary.

''(3) QUALIFYING CLEAN COAL TECHNOLOGY.—For purposes of paragraph (1)(A)—

''(A) IN GENERAL.—The term 'qualifying clean coal technology' means, with respect to clean coal technology—

''(i) applications totaling 1,000 megawatts of advanced pulverized coal or

atmospheric fluidized bed combustion technology installed as a new, retrofit, or repowering application and operated between 2000 and 2014 that has a design average net heat rate of not more than 8,750 Btu's per kilowatt hour,

''(ii) applications totaling 1,500 megawatts of pressurized fluidized bed combustion technology installed as a new, retrofit, or repowering application and operated between 2000 and 2014 that has a design average net heat rate of not more than 8,400 Btu's per kilowatt hour,

''(iii) applications totaling 1,500 megawatts of integrated gasification combined cycle technology installed as a new, retrofit, or repowering application and operated between 2000 and 2014 that has a design average net heat rate of not more than 8,550 Btu's per kilowatt hour,

''(iv) applications totaling 2,000 megawatts or equivalent of technology for the production of electricity installed as a new, retrofit, or repowering application and operated between 2000 and 2014 that

has a carbon emission rate that is not more than 85 percent of conventional technology.

''(B) EXCEPTIONS.—Such term shall not include clean coal technology projects receiving or scheduled to receive funding under the Clean Coal Technology Program of the Department of Energy.

''(C) CLEAN COAL TECHNOLOGY.—The term 'clean coal technology' means advanced technology that utilizes coal to produce 50 percent or more of its thermal output as electricity including advanced pulverized coal or atmospheric fluidized bed combustion, pressurized fluidized bed combustion, integrated gasification combined cycle, and any other technology for the production of electricity that exceeds the performance of conventional technology.

''(D) CONVENTIONAL COAL TECHNOLOGY.—The term 'conventional technology' means—

''(i) coal-fired combustion technology with a design average net heat rate of not less than 9,300 Btu's per kilowatt hour (HHV) and a carbon equivalents emission

rate of not more than 0.53 pounds of carbon per kilowatt hour; or

''(ii) natural gas-fired combustion technology with a design average net heat rate of not less than 7,500 Btu's per kilowatt hour (HHV) and a carbon equivalents emission rate of not more than 0.24 pound of carbon per kilowatt hour.

''(E) DESIGN AVERAGE NET HEAT RATE.—The term 'design average net heat rate' shall be based on the design average annual heat input to and the design average annual net electrical output from the qualifying clean coal technology (determined without regard to such technology's co-generation of steam).

''(F) SELECTION CRITERIA.—Selection criteria for clean coal technology facilities—

''(i) shall be established by the Secretary of Energy as part of a competitive solicitation,

''(ii) shall include primary criteria of minimum design average net heat rate, maximum design average thermal efficiency, and lowest cost to the government, and

''(iii) shall include supplemental criteria as determined appropriate by the Secretary of Energy.

''(c) QUALIFIED INVESTMENT.—For purposes of subsection (a), the term 'qualified investment' means, with respect to any taxable year, the basis of a qualifying clean coal technology facility placed in service by the taxpayer during such taxable year.

''(d) QUALIFIED PROGRESS EXPENDITURES.—

''(1) INCREASE IN QUALIFIED INVESTMENT.—In the case of a taxpayer who has made an election under paragraph (5), the amount of the qualified investment of such taxpayer for the taxable year (determined under subsection (c) without regard to this section) shall be increased by an amount equal to the aggregate of each qualified progress expenditure for the taxable year with respect to progress expenditure property.

''(2) PROGRESS EXPENDITURE PROPERTY DEFINED.—For purposes of this subsection, the term 'progress expenditure property' means any property being constructed by or for the taxpayer and which it is reasonable to believe will qualify as a qualifying clean coal technology facility which is being con-

structed by or for the taxpayer when it is placed in service.

''(3) QUALIFIED PROGRESS EXPENDITURES DEFINED.—For purposes of this subsection—

''(A) SELF-CONSTRUCTED PROPERTY.—In the case of any self-constructed property, the term 'qualified progress expenditures' means the amount which, for purposes of this subpart, is properly chargeable (during such taxable year) to capital account with respect to such property.

''(B) NON-SELF-CONSTRUCTED PROPERTY.—In the case of non-self-constructed property, the term 'qualified progress expenditures' means the amount paid during the taxable year to another person for the construction of such property.

''(4) OTHER DEFINITIONS.—For purposes of this subsection—

''(A) SELF-CONSTRUCTED PROPERTY.—The term 'self-constructed property' means property for which it is reasonable to believe that more than half of the construction expenditures will be made directly by the taxpayer.

''(B) NON-SELF-CONSTRUCTED PROPERTY.—The term 'non-self-constructed property' means property which is not self-constructed property.

''(C) CONSTRUCTION, ETC.—The term 'construction' includes reconstruction and erection, and the term 'constructed' includes reconstructed and erected.

''(D) ONLY CONSTRUCTION OF QUALIFYING CLEAN COAL TECHNOLOGY FACILITY TO BE TAKEN INTO ACCOUNT.—Construction shall be taken into account only if, for purposes of this subpart, expenditures therefor are properly chargeable to capital account with respect to the property.

''(5) ELECTION.—An election under this subsection may be made at such time and in such manner as the Secretary may by regulations prescribe. Such an election shall apply to the taxable year for which made and to all subsequent taxable years. Such an election, once made, may not be revoked except with the consent of the Secretary.

''(e) COORDINATION WITH OTHER CREDITS.—This section shall not apply to any property with respect to which the rehabilitation credit under section 47 or the en-

ergy credit under section 48A is allowed unless the taxpayer elects to waive the application of such credit to such property.

''(f) TERMINATION.—This section shall not apply with respect to any qualified investment after December 31, 2014.''

''(c) RECAPTURE.—Section 50(a) (relating to other special rules) is amended by adding at the end the following:

''(6) SPECIAL RULES RELATING TO QUALIFYING CLEAN COAL TECHNOLOGY FACILITY.—For purposes of applying this subsection in the case of any credit allowable by reason of section 48B, the following shall apply:

''(A) GENERAL RULE.—In lieu of the amount of the increase in tax under paragraph (1), the increase in tax shall be an amount equal to the investment tax credit allowed under section 38 for all prior taxable years with respect to a qualifying clean coal technology facility (as defined by section 48B(b)(1)) multiplied by a fraction whose numerator is the number of years remaining to fully depreciate under this title the qualifying clean coal technology facility disposed of, and whose denominator is the total

number of years over which such facility would otherwise have been subject to depreciation. For purposes of the preceding sentence, the year of disposition of the qualifying clean coal technology facility property shall be treated as a year of remaining depreciation.

''(B) PROPERTY CEASES TO QUALIFY FOR PROGRESS EXPENDITURES.—Rules similar to the rules of paragraph (2) shall apply in the case of qualified progress expenditures for a qualifying clean coal technology facility under section 48B, except that the amount of the increase in tax under subparagraph (A) of this paragraph shall be substituted in lieu of the amount described in such paragraph (2).

''(C) APPLICATION OF PARAGRAPH.—This paragraph shall be applied separately with respect to the credit allowed under section 38 regarding a qualifying clean coal technology facility.''

(d) TRANSITIONAL RULE.—Section 39(d) of the Internal Revenue Code of 1986 (relating to transitional rules), as amended by section 101(b)(2), is amended by adding at the end the following:

''(10) NO CARRYBACK OF SECTION 48B CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the qualifying clean coal technology facility credit determined under section 48B may be carried back to a taxable year ending before the date of the enactment of section 48B.''

(e) TECHNICAL AMENDMENTS.—

(1) Section 49(a)(1)(C) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following:

''(iv) the portion of the basis of any qualifying clean coal technology facility attributable to any qualified investment (as defined by section 48B(c)).''

(2) Section 50(a)(4) is amended by striking ''and (2)'' and inserting '', (2), and (6)''.

(3) The table of sections for subpart E of part IV of subchapter A of chapter 1, as amended by section 101(d), is amended by inserting after the item relating to section 48A the following:

''Sec. 48B. Qualifying clean coal technology facility credit.''

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after December 31,

2000, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 502. CREDIT FOR PRODUCTION FROM QUALIFYING CLEAN COAL TECHNOLOGY.

(a) CREDIT FOR PRODUCTION FROM QUALIFYING CLEAN COAL TECHNOLOGY.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following:

"SEC. 45D. CREDIT FOR PRODUCTION FROM QUALIFYING CLEAN COAL TECHNOLOGY.

''(a) GENERAL RULE.—For purposes of section 38, the qualifying clean coal technology production credit of any taxpayer for any taxable year is equal to the applicable amount for each kilowatt hour—

''(1) produced by the taxpayer at a qualifying clean coal technology facility during the 10-year period beginning on the date the facility was originally placed in service, and

''(2) sold by the taxpayer to an unrelated person during such taxable year.

''(b) APPLICABLE AMOUNT.—For purposes of this section, the applicable amount with respect to production

from a qualifying clean coal technology facility shall be determined as follows:

''(1) In the case of a facility originally placed in service before 2007, if—

"The facility design average net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is: For 1st 5 yrs of such service	The applicable amount is: For 2d 5 yrs of such service
Not more than 8400	$.0130	$.0110
More than 8400 but not more than 8550	.0100	.0085
More than 8550 but not more than 8750	.0090	.0070.

''(2) In the case of a facility originally placed in service after 2006 and before 2011, if—

"The facility design average net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is: For 1st 5 yrs of such service	The applicable amount is: For 2d 5 yrs of such service
Not more than 7770	$.0100	$.0080
More than 7770 but not more than 8125	.0080	.0065
More than 8125 but not more than 8350	.0070	.0055.

''(3) In the case of a facility originally placed in service after 2010 and before 2015, if—

"The facility design average net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is: For 1st 5 yrs of such service	The applicable amount is: For 2d 5 yrs of such service
Not more than 7720	$.0085	$.0070
More than 7720 but not more than 7380	.0070	.0045.

''(c) INFLATION ADJUSTMENT FACTOR.—Each amount in paragraphs (1), (2), and (3) shall each be adjusted by multiplying such amount by the inflation adjust-

ment factor for the calendar year in which the amount is applied. If any amount as increased under the preceding sentence is not a multiple of 0.01 cent, such amount shall be rounded to the nearest multiple of 0.01 cent.

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) any term used in this section which is also used in section 48B shall have the meaning given such term in section 48B,

''(2) the rules of paragraphs (3), (4), and (5) of section 45 shall apply,

''(3) the term 'inflation adjustment factor' means, with respect to a calendar year, a fraction the numerator of which is the GDP implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for the calendar year 1998, and

''(4) the term 'GDP implicit price deflator' means the most recent revision of the implicit price deflator for the gross domestic product as computed by the Department of Commerce before March 15 of the calendar year.''

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) is amended by striking ''plus'' at the end of paragraph (11), by striking the period at the end of para-

graph (12) and inserting ", plus", and by adding at the end the following:

"(13) the qualifying clean coal technology production credit determined under section 45D(a)."

(c) TRANSITIONAL RULE.—Section 39(d) (relating to transitional rules), as amended by section 501(d), is amended by adding at the end the following:

"(11) NO CARRYACK OF CERTAIN CREDITS BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credits allowable under any section added to this subpart by the amendments made by the Energy Security Tax and Policy Act of 2000 may be carried back to a taxable year ending before the date of the enactment of such Act."

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following:

"Sec. 45D. Credit for production from qualifying clean coal technology.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to production after December 31, 2000.

SEC. 503. RISK POOL FOR QUALIFYING CLEAN COAL TECHNOLOGY.

(a) ESTABLISHMENT.—The Secretary of the Treasury shall establish a financial risk pool which shall be

available to any United States owner of qualifying clean coal technology (as defined in section 48B(b)(3) of the Internal Revenue Code of 1986) to offset for the first 3 three years of the operation of such technology the costs (not to exceed 5 percent of the total cost of installation) for modifications resulting from the technology's failure to achieve its design performance.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as are necessary to carry out the purposes of this section.

TITLE VI—METHANE RECOVERY

SEC. 601. CREDIT FOR CAPTURE OF COALMINE METHANE GAS.

(a) CREDIT FOR CAPTURE OF COALMINE METHANE GAS.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by section 502(a), is amended by adding at the end the following:

"SEC. 45E. CREDIT FOR CAPTURE OF COALMINE METHANE GAS.

''(b) DEFINITION OF COALMINE METHANE GAS.—The term ''Coalmine Methane Gas'' as used in this section means any methane gas which is being liberated, or would be liberated, during coal mine operations or as a result of past coal mining operations, or which is extracted up

to ten years in advance of coal mining operations as part of specific plan to mine a coal deposit.

''For the purpose of section 38, the coalmine methane gas capture credit of any taxpayer for any taxable year is $1.21 for each one million British thermal units of coalmine methane gas captured by the taxpayer and utilized as a fuel source or sold by or on behalf of the taxpayer to an unrelated person during such taxable year (within the meaning of section 45).''.

(b) Credits for the capture of coalmine methane gas shall be earned upon the utilization as a fuel source or sale and delivery of the coalmine methane gas to an unrelated party, except that credit for coalmine methane gas which is captured in advance of mining operations shall be claimed only after coal extraction occurs in the immediate area where the coalmine methane gas was removed.

(c) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b), as amended by section 502(b), is amended by striking ''plus'' at the end of paragraph (12), by striking the period at the end of paragraph (13) and inserting '', plus'', and by adding at the end the following:

''(14) the coalmine methane gas capture credit determined under section 45E(a).''.

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1,

as amended by section 502(d), is amended by adding at the end the following:

''Sec. 45E. Credit for the capture of coalmine methane gas.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to the capture of coalmine methane gas after December 31, 2000, and on or before December 31, 2006.

TITLE VII—OIL AND GAS PRODUCTION

SEC. 701. CREDIT FOR PRODUCTION OR RE-REFINED LUBRICATING OIL.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by section 601(a), is amended by adding at the end the following:

''SEC. 45F. CREDIT FOR PRODUCING RE-REFINED LUBRICATING OIL.

''(a) GENERAL RULE.—For purposes of section 38, the re-refined lubricating oil production credit of any taxpayer for any taxable year is equal to $4.05 per barrel of qualified re-refined lubricating oil production which is attributable to the taxpayer (within the meaning of section 29(d)(3)).

''(b) QUALIFIED RE-REFINED LUBRICATING OIL PRODUCTION.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified re-refined lubricating oil production' means a base oil manufactured from at least 95 percent used oil and not more than 2 percent of previously unused oil by a re-refining process which effectively removes physical and chemical impurities and spent and unspent additives to the extent that such base oil meets industry standards for engine oil as defined by the American Petroleum Institute document API 1509 as in effect on the date of the enactment of this section.

''(2) LIMITATION ON AMOUNT OF PRODUCTION WHICH MAY QUALIFY.—Re-refined lubricating oil produced during any taxable year shall not be treated as qualified re-refined lubricating oil production but only to the extent average daily production during the taxable year exceeds 7,000 barrels.

''(3) BARREL.—The term 'barrel' has the meaning given such term by section 613A(e)(4).

(c) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2000, the dollar amount contained in subsection (a) shall be increased to an amount equal to such dollar amount multiplied by the inflation adjustment factor for such calendar

year (determined under section 29(d)(2)(B) by substituting '2000' for '1979').''.

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by section 601(b), is amended by striking 'plus' at the end of paragraph (13), by striking the period at the end of paragraph (14), and inserting ', plus', and by adding at the end the following:

''(15) the re-refined lubricating oil production credit determined under section 45F(a).''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by section 601(c), is amended by adding at the end the following:

''Sec. 45F. Credit for producing re-refined lubricating oil.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to production after December 31, 2000.

SEC. 702. OIL AND GAS FROM MARGINAL WELLS.

''SEC. 45D. CREDIT FOR PRODUCING OIL AND GAS FROM MARGINAL WELLS.

''(a) GENERAL RULE.—For purposes of section 38, the marginal well production credit for any taxable year is an amount equal to the product of—

''(1) the credit amount, and

''(2) the qualified credit oil production and the qualified natural gas production which is attributable to the taxpayer.

''(b) CREDIT AMOUNT.—For purposes of this section—

''(1) IN GENERAL.—The credit amount is—

''(A) $3 per barrel of qualified crude oil production, and

''(B) 50 cents per 1,000 cubic feet of qualified natural gas production.

''(2) REDUCTION AS OIL AND GAS PRICES INCREASE.—

''(A) IN GENERAL.—The $3 and 50 cents amounts under paragraph (1) shall each be reduced (but not below zero) by an amount which bears the same ratio to such amount (determined without regard to this paragraph) as—

''(i) the excess (if any) of the applicable reference price over $14 ($1.56 for qualified natural gas production), bears to

''(ii) $3 ($0.33 for qualified natural gas production).

The applicable reference price for a taxable year is the reference price of the calendar year

preceding the calendar year in which the taxable year begins.

''(B) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2000, each of the dollar amounts contained in subparagraph (A) shall be increased to an amount equal to such dollar amount multiplied by the inflation adjustment factor for such calendar year (determined under section 43(b)(3)(B) by substituting '2000' for '1990').

''(C) REFERENCE PRICE.—For purposes of this paragraph, the term 'reference price' means, with respect to any calendar year—

''(i) in the case of qualified crude oil production, the reference price determined under section 29(d)(2)(C), and

''(ii) in the case of qualified natural gas production, the Secretary's estimate of the annual average wellhead price per 1,000 cubic feet for all domestic natural gas.

''(c) QUALIFIED CRUDE OIL AND NATURAL GAS PRODUCTION.—For purposes of this section—

''(1) IN GENERAL.—The terms 'qualified crude oil production' and 'qualified natural gas production' mean domestic crude oil or natural gas which is produced from a marginal well.

''(2) LIMITATION ON AMOUNT OF PRODUCTION WHICH MAY QUALIFY.—

''(A) IN GENERAL.—Crude oil or natural gas produced during any taxable year from any well shall not be treated or qualified crude oil production or qualified natural gas production to the extent production from the well during the taxable year exceeds 1,095 barrels or barrel equivalents.

''(B) PROPORTIONATE REDUCTIONS.—

''(i) SHORT TAXABLE YEARS.—In the case of a short taxable year, the limitations under this paragraph shall be proportionately reduced to reflect the ratio which the number of days in such taxable year bears to 365.

''(ii) WELLS NOT IN PRODUCTION ENTIRE YEAR.—In the case of a well which is not capable of production during each day of a taxable year, the limitations under this paragraph applicable to the well shall

be proportionately reduced to reflect the ratio which the number of days of production bears to the total number of days in the taxable year.

''(3) DEFINITIONS.—

''(A) MARGINAL WELL.—The term 'marginal well' means a domestic well—

''(i) the production from which during the taxable year is treated as marginal production under section 613A(c)(6), or

''(ii) which, during the taxable year—

''(I) has average daily production of not more than 25 barrel equivalents, and

''(II) produces water at a rate not less than 95 percent of total well effluent.

''(B) CRUDE OIL, ETC.—The terms 'crude oil', 'natural gas', 'domestic', and 'barrel' have the meanings given such terms by section 613A(e).

''(C) BARREL EQUIVALENT.—The term 'barrel equivalent' means, with respect to natural gas, a conversation ratio of 6,000 cubic feet of natural gas to 1 barrel of crude oil.

''(d) OTHER RULES.—

''(1) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER.—In the case of a marginal well in which there is more than one owner of operating interests in the well and the crude oil or natural gas production exceeds the limitation under subsection (c)(2), qualifying crude oil production or qualifying natural gas production attributable to the taxpayer shall be determined on the basis of the ratio which taxpayer's revenue interest in the production bears to the aggregate of the revenue interests of all operating interest owners in the production.

''(2) OPERATING INTEREST REQUIRED.—Any credit under this section may be claimed only on production which is attributable to the holder of an operating interest.

''(3) PRODUCTION FROM NONCONVENTIONAL SOURCES EXCLUDED.—In the case of production from a marginal well which is eligible for the credit allowed under section 29 for the taxable year, no credit shall be allowable under this section unless the taxpayer elects not to claim the credit under section 29 with respect to the well.''.

(c) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) is amended by striking 'plus' at the end of para-

graph (11), by striking the period at the end of paragraph (12) and inserting ', plus', and by adding at the end the following new paragraph:

"(13) the marginal oil and gas well production credit determined under section 45D(a).".

(d) CREDIT ALLOWED AGAINST REGULAR AND MINIMUM TAX.—

(1) IN GENERAL.—Subsection (c) of section 38 (relating to limitation based on amount of tax) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) SPECIAL RULES FOR MARGINAL OIL AND GAS WELL PRODUCTION CREDIT.—

"(A) IN GENERAL.—In the case of the marginal oil and gas well production credit—

"(i) this section and section 39 shall be applied separately with respect to the credit, and

"(ii) in applying paragraph (1) to the credit—

"(I) subparagraphs (A) and (B) thereof shall not apply, and

"(II) the limitation under paragraph (1) (as modified by subclause

(I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the marginal oil and gas well production credit).

''(B) MARGINAL OIL AND GAS WELL PRODUCTION CREDIT.—For purposes of this subsection, the term 'marginal oil and gas well production credit' means the credit allowable under subsection (a) by reason of section 45D(a).''.

(2) CONFORMING AMENDMENT.—Subclause (II) of section 38(c)(2)(A)(ii) is amended by inserting ''or the marginal oil and gas well production credit'' after ''employment credit''.

(e) CARRYBACK.—Subsection (a) of section 39 (relating to carryback and carryforward of unused credits generally) is amended by adding at the end the following new paragraph:

''(3) 10-YEAR CARRYBACK FOR MARGINAL OIL AND GAS WELL PRODUCTION CREDIT.—In the case of the marginal oil and gas well production credit—

''(A) this section shall be applied separately from the business credit (other than the marginal oil and gas well production credit),

''(B) paragraph (1) shall be applied by substituting '10 taxable years' for '1 taxable years' in subparagraph (A) thereof, and

''(C) paragraph (2) shall be applied—

''(i) by substituting '31 taxable years' for '21 taxable years' in subparagraph (A) thereof, and

''(ii) by substituting '30 taxable years' for '20 taxable years' in subparagraph (A) thereof.''.

(f) COORDINATION WITH SECTION 29.—Section 29(a) is amended by striking ''There'' and inserting ''At the election of the taxpayer, there''.

(g) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter I is amended by adding at the end the following item:

''Sec. 45D. Credit for producing oil and gas from marginal wells.''

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to production in taxable years beginning after December 31, 2000.

SEC. 703. DEDUCTION FOR DELAY RENTAL PAYMENTS.

(a) IN GENERAL.—Section 263 (relating to capital expenditures) is amended by adding after subsection (i) the following new subsection:

''(j) DELAY RENTAL PAYMENTS FOR DOMESTIC OIL AND GAS WELLS.—

''(1) IN GENERAL.—Notwithstanding subsection (a), a taxpayer may elect to treat delay rental payments incurred in connection with the development of oil or gas within the United States (as defined in section 638) as payments which are not chargeable to capital account. Any payments so treated shall be allowed as a deduction in the taxable year in which paid or incurred.

''(2) DELAY RENTAL PAYMENTS.—For purposes of paragraph (1), the term 'delay rental payment' means an amount paid for the privilege of deferring development of an oil or gas well.''

(b) CONFORMING AMENDMENT.—Section 263A(c)(3) is amended by inserting ''263(j),'' after '263(i),'.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2000.

SEC. 704. ELECTION TO EXPENSE GEOLOGICAL AND GEOPHYSICAL EXPENDITURES.

(a) IN GENERAL.—Section 263 (relating to capital expenditures) is amended by adding after subsection (j) the following new subsection:

''(k) GEOLOGICAL AND GEOPHYSICAL EXPENDITURES FOR DOMESTIC OIL AND GAS WELLS.—Notwithstanding subsection (a), a taxpayer may elect to treat geo-

logical and geophysical expenses incurred in connection with the exploration for, or development of, oil or gas within the United States (as defined in section 638) as expenses which are not chargeable to capital account. Any expenses so treated shall be allowed as a deduction in the taxable year in which paid or incurred.''

(b) CONFORMING AMENDMENT.—Section 263A(c)(3) is amended by inserting ''263(k),'' after ''263(j),''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to costs paid or incurred in taxable years beginning after December 31, 2000.

TITLE VIII—RENEWABLE POWER GENERATION

SEC. 801. MODIFICATIONS TO CREDIT FOR ELECTRICITY PRODUCED FROM RENEWABLE RESOURCES.

(a) EXPANSION OF QUALIFIED ENERGY RESOURCES.—

(1) IN GENERAL.—Section 45(c)(1) (defining qualified energy resources) is amended by striking ''and'' at the end of subparagraph (B), by striking subparagraph (C), and by adding at the end the following:

''(C) biomass (other than closed-loop biomass), or

''(D) poultry waste.''

(2) DEFINITIONS.—Section 45(c) is amended by redesignating paragraph (3) as paragraph (4) and by striking paragraphs (2) and (4) and inserting the following:

''(2) BIOMASS.—

''(A) IN GENERAL.—The term 'biomass' means—

''(i) closed-loop biomass, and

''(ii) any solid, nonhazardous, cellulosic waste material, which is segregated from other waste materials, and which is derived from—

''(I) any of the following forest-related resources: mill residues, precommercial thinnings, slash, and brush, not including old-growth timber,

''(II) waste pallets, crates, and dunnage, and landscape or right-of-way tree trimmings, but not including unsegregated municipal solid waste (garbage) and post-consumer wastepaper, or

''(III) agriculture sources, including orchard tree crops, vineyard,

grain, legumes, sugar, and other crop by-products or residues.

''(B) CLOSED-LOOP BIOMASS.—The term 'closed-loop biomass' means any organic material from a plant which is planted exclusively for purposes of being used at a qualified facility to produce electricity.

''(3) POULTRY WASTE.—The term 'poultry waste' means poultry manure and litter, including wood shavings, straw, rice hulls, and other bedding material for the disposition of manure.''

(b) EXTENSION AND MODIFICATION OF PLACED-IN SERVICE RULES.—Paragraph (4) of section 45(c), as redesignated by subsection (a), is amended to read as follows:

''(4) QUALIFIED FACILITY.—

''(A) WIND FACILITY.—In the case of a facility using wind to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after December 31, 1993.

''(B) CLOSED-LOOP BIOMASS FACILITY.—In the case of a facility using closed-loop biomass to produce electricity, the term 'qualified

facility' means any facility owned by the taxpayer which:

"(i) is originally placed in service after December 31, 1992 and before January 1, 2005, or

"(ii) is originally placed in service before December 31, 2000, and modified to use closed loop biomass to co-fire with coal after such date and before January 1, 2005.

"(C) BIOMASS FACILITY.—In the case of a facility using biomass (other than closed-loop biomass) to produce electricity, the term 'qualified facility' means:

"(i) any facility owned by the taxpayer which is originally placed in service after December 31, 2000 and before January 1, 2005, or

"(ii) is originally placed in service before December 31, 2000 and modified to co-fire biomass with coal after such date and before January 1, 2005.

"(D) POULTRY WASTE FACILITY.—In the case of a facility using poultry waste to produce electricity, the term 'qualified facility' means:

''(i) any facility of the taxpayer which is originally placed in service after December 31, 1999 and before January 1, 2005, or

''(ii) is originally placed in service before December 31, 2000 and modified to co-fire poultry waste with coal after such date and before January 1, 2005.

''(E) SPECIAL RULES.—

''(i) COMBINED PRODUCTION FACILITIES INCLUDED.—For purposes of this paragraph, the term 'qualified facility' shall include a facility using biomass to produce electricity and other biobased products such as renewables based chemicals and fuels.

''(ii) SPECIAL RULES.—In the case of a qualified facility described in subparagraph (B), (C) or (D)—

''(I) the 10-year period referred to in subsection (a) shall be treated as beginning upon the date the taxpayer first applies for the credit, and

''(II) subsection (b)(3) shall not apply to any such facility originally

placed in service before January 1, 1997.'

(c) ELECTRICITY PRODUCED FROM BIOMASS CO-FIRED IN COAL PLANTS.—Paragraph (1) of section 45(a) (relating to general rule) is amended by inserting ''(1.0 cents in the case of electricity produced from biomass, other than closed loop biomass, co-fired in a facility which produces electricity from coal) after ''1.5 cents.''

(d) COORDINATION WITH OTHER CREDITS.—Section 45(d) (relating to definitions and special rules) is amended by adding at the end the following:

''(8) COORDINATION WITH OTHER CREDITS.—This section shall not apply to any production with respect to which the clean coal technology production credit under section 45(b) is allowed unless the taxpayer elects to waive the application of such credit to such production.''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity produced after December 31, 2000.

SEC. 802. CREDIT FOR CAPITAL COSTS OF QUALIFIED BIOMASS-BASED GENERATING SYSTEM.

(a) ALLOWANCE OF QUALIFIED BIOMASS-BASED GENERATING SYSTEM FACILITY CREDIT.—Section 46 (relating to amount of credit), as amended by section

501(a), is amended by striking ''and'' at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting '', and'', and by adding at the end the following:

''(5) the qualified biomass-based generating system facility credit.''

(b) AMOUNT OF CREDIT.—Subpart E of part IV of subchapter A of chapter 1 (relating to rules for computing investment credit), as amended by section 501(b), is amended by inserting after section 48C the following:

SEC. 48C. Qualified biomass-based generating system facility credit.

''(a) IN GENERAL.—For purposes of section 46, the qualified biomass-based generating system facility credit for any taxable year is an amount equal to 20 percent of the qualified investment in a qualified biomass-based generating system facility for such taxable year.

''(b) QUALIFIED BIOMASS-BASED GENERATING SYSTEM FACILITY.—

''(1) IN GENERAL.—For purposes of subsection (a), the term 'qualified biomass-based generating system facility' means a facility of the taxpayer—

''(A)(i) the original use of which commences with the taxpayer or the reconstruction of which is completed by the taxpayer (but only with respect to that portion of the basis which

is properly attributable to such reconstruction), or

"(ii) that is acquired through purchase (as defined by section 179(d)(2)),

"(B) that is depreciable under section 167,

"(C) that has a useful life of not less than 4 years, and

"(D) that uses a qualified biomass-based generating system.

"(2) SPECIAL RULE FOR SALE-LEASEBACKS.—For purposes of subparagraph (A) of paragraph (1), in the case of a facility that—

"(A) is originally placed in service by a person, and

"(B) is sold and leased back by such person, or is leased to such person, within 3 months after the date such facility was originally placed in service, for a period of not less than 12 years, such facility shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback (or lease) referred to in subparagraph (B). The preceding sentence shall not apply to any property if the lessee and lessor of such property make an election under this sentence.

Such an election, once made, may be revoked only with the consent of the Secretary.

''(3) QUALIFIED BIOMASS-BASED GENERATING SYSTEM.—For purposes of paragraph (1)(D), the term 'qualified biomass-based generating system' means a biomass-based integrated gasification combined cycle (IGCC) generating system which has an electricity-only generation efficiency greater than 40 percent.

''(c) QUALIFIED INVESTMENT.—For purposes of subsection (a), the term 'qualified investment' means, with respect to any taxable year, the basis of a qualified biomass-based generating system facility placed in service by the taxpayer during such taxable year.

''(d) QUALIFIED PROGRESS EXPENDITURES.—

''(1) INCREASE IN QUALIFIED INVESTMENT.—In the case of a taxpayer who has made an election under paragraph (5), the amount of the qualified investment of such taxpayer for the taxable year (determined under subsection (c) without regard to this section) shall be increased by an amount equal to the aggregate of each qualified progress expenditure for the taxable year with respect to progress expenditure property.

''(2) PROGRESS EXPENDITURE PROPERTY DEFINED.—For purposes of this subsection, the term 'progress expenditure property' means any property being constructed by or for the taxpayer and which—

''(A) cannot reasonably be expected to be completed in less than 18 months, and

''(B) it is reasonable to believe will qualify as a qualified biomass-based generating system facility which is being constructed by or for the taxpayer when it is placed in service.

''(3) QUALIFIED PROGRESS EXPENDITURES DEFINED.—For purposes of this subsection—

''(A) SELF-CONSTRUCTED PROPERTY.—In the case of any self-constructed property, the term 'qualified progress expenditures' means the amount which, for purposes of this subpart, is properly chargeable (during such taxable year) to capital account with respect to such property.

''(B) NON-SELF-CONSTRUCTED PROPERTY.—In the case of non-self-constructed property, the term 'qualified progress expenditures' means the amount paid during the tax-

able year to another person for the construction of such property.

''(4) OTHER DEFINITIONS.—For purposes of this subsection—

''(A) SELF-CONSTRUCTED PROPERTY.—The term 'self-constructed property' means property for which it is reasonable to believe that more than half of the construction expenditures will be made directly by the taxpayer.

''(B) NON-SELF-CONSTRUCTED PROPERTY.—The term 'non-self-constructed property' means property which is not self-constructed property.

''(C) CONSTRUCTION, ETC..—The term 'construction' includes reconstruction and erection, and the term 'constructed' includes reconstructed and erected.

''(D) ONLY CONSTRUCTION OF QUALIFIED BIOMASS-BASED GENERATING SYSTEM FACILITY TO BE TAKEN INTO ACCOUNT.—Construction shall be taken into account only if, for purposes of this subpart, expenditures therefor are properly chargeable to capital account with respect to the property.

''(5) ELECTION.—An election under this subsection may be made at such time and in such manner as the Secretary may by regulations prescribe. Such an election shall apply to the taxable year for which made and to all subsequent taxable years. Such an election, once made, may not be revoked except with the consent of the Secretary.

''(e) COORDINATION WITH OTHER CREDITS.—This section shall not apply to any property with respect to which the rehabilitation credit under section 47 or the energy credit under section 48A is allowed unless the taxpayer elects to waive the application of such credits to such property.''.

(c) RECAPTURE.—Section 50(a) (relating to other special rules), as amended by section 501(c), is amended by adding at the end the following:

''(7) SPECIAL RULES RELATING TO QUALIFIED BIOMASS-BASED GENERATING SYSTEM FACILITY.—For purposes of applying this subsection in the case of any credit allowable by reason of section 48C, the following shall apply:

''(A) GENERAL RULE.—In lieu of the amount of the increase in tax under paragraph (1), the increase in tax shall be an amount equal to the investment tax credit allowed under

section 38 for all prior taxable years with respect to a qualified biomass-based generating system facility (as defined by section 48C(b)) multiplied by a fraction whose numerator is the number of years remaining to fully depreciate under this title the qualified biomass-based generating system facility disposed of, and whose denominator is the total number of years over which such facility would otherwise have been subject to depreciation. For purposes of the preceding sentence, the year of disposition of the qualified biomass-based generating system facility shall be treated as a year of remaining depreciation.

''(B) PROPERTY CEASES TO QUALIFY FOR PROGRESS EXPENDITURES.—Rules similar to the rules of paragraph (2) shall apply in the case of qualified progress expenditures for a qualified biomass-based generating system facility under section 48C, except that the amount of the increase in tax under subparagraph (A) of this paragraph shall be substituted in lieu of the amount described in such paragraph (2).

''(C) APPLICATION OF PARAGRAPH.—This paragraph shall be applied separately with re-

spect to the credit allowed under section 38 regarding a qualified biomass-based generating system facility.''.

(d) TRANSITIONAL RULE.—Section 39(d) of the Internal Revenue Code of 1986 (relating to transitional rules), as amended by section 501(d), is amended by adding at the end the following:

''(11) NO CARRYBACK OF SECTION 48C CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the qualified biomass-based generating system facility credit determined under section 48C may be carried back to a taxable year ending before the date of the enactment of section 48C.''.

(e) TECHNICAL AMENDMENTS.—

(1) Section 49(a)(1)(C), as amended by section 501(e), is amended by striking ''and'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', and'', and by adding at the end the following:

''(v) the portion of the basis of any qualified biomass-based generating system facility attributable to any qualified investment (as defined by section 48C(c)).''.

(2) Section 50(a)(4), as amended by section 501(e), is amended by striking ''and (6)'' and inserting '', (6), and (7)''.

(3) The table of sections for subpart E of part IV of subchapter A of chapter 1, as amended by section 501(e), is amended by inserting after the item relating to section 48B the following:

''Sec. 48C. Qualified biomass-based generating system facility credit.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after December 31, 1999, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 803. TREATMENT OF FACILITIES USING BAGASSE TO PRODUCE ENERGY AS SOLID WASTE DISPOSAL FACILITIES ELIGIBLE FOR TAX-EXEMPT FINANCING.

(a) IN GENERAL.—Section 142 (relating to exempt facility bond) is amended by adding at the end the following:

''(k) SOLID WASTE DISPOSAL FACILITIES.—For purposes of subsection (a)(6), the term 'solid waste disposal facilities' includes property located in Hawaii and used for the collection, storage, treatment, utilization, processing,

or final disposal of bagasse in the manufacture of ethanol.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. 804. FEDERAL RENEWABLE PORTFOLIO STANDARD.

Title VI of the Public Utility Regulatory Policies Act of 1978 is further amended by adding at the end the following:

''SEC. 610. FEDERAL RENEWABLE PORTFOLIO STANDARD.

''(a) MINIMUM RENEWABLE GENERATION REQUIREMENT.—For each calendar year beginning with 2003, a retail electric supplier shall submit to the Secretary renewable energy credits in an amount equal to the required annual percentage, specified in subsection (b), of the total electric energy sold by the retain electric supplier to electric consumers in the calendar year. The retail electric supplier shall make this submission before April 1 of the following calendar year.

''(b) REQUIRED ANNUAL PERCENTAGE.—

''(1) For calendar years 2003 and 2004, the required annual percentage shall determined by the Secretary in an amount less than the amount in paragraph (2);

''(2) For calendar years 2005 through 2015, the required annual percentage shall be determined by the Secretary, but no less than 2.5 percent of the retail electric supplier's base amount by the year 2007 increasing to 5.0 percent by the year 2012 continuing through 2015.

''(c) SUBMISSION OF CREDITS.—(1) A retail electric supplier may satisfy the requirements of subsection (a) through the submission of—

''(A) renewable energy credits issued under subsection (d) for renewable energy generated by the retail electric supplier in the calendar year for which credits are being submitted or any previous calendar year;

''(B) renewable energy credits obtained by purchase or exchange under subsection (e);

''(C) renewable energy credits borrowed against future years under subsection (f); or

''(D) any combination of credits under subparagraphs (A), (B), and (C).

''(2) A credit may be counted toward compliance with subsection (a) only once.

''(d) ISSUANCE OF CREDITS.—(1) The Secretary shall establish, not later than one year after the date of

enactment of this section, a program to issue, monitor the sale or exchange of, and track renewable energy credits.

''(2) Under the program, an entity that generates electric energy through the use of a renewable energy resource may apply to the Secretary for the issuance of renewable energy credits. The application shall indicate—

''(A) the type of renewable energy resource used to produce the electricity,

''(B) the State in which the electric energy was produced, and

''(C) any other information the Secretary determines appropriate.

''(3)(A) Except as provided in paragraphs (B) and (C), the Secretary shall issue to an entity one renewable energy credit for each kilowatt-hour of electric energy the entity generates through the use of a renewable energy resource in any State in 2001 and any succeeding year through 2015.

''(B) For incremental hydropower the credits shall be calculated based on normalized water flows, and not actual generation. The calculation of the credits for incremental hydropower shall not be based on any operational changes at the hydroproject not directly associated with the efficiency improvements or capacity additions.

''(C) The Secretary shall issue two renewable energy credits for each kilowatt-hour of electric energy generated through the use of a renewable energy resource in any State in 2001 and any succeeding year, if the generating facility is located on Indian land. For purposes of this paragraph, renewable energy generated by biomass cofired with other fuels is eligible for two credits only if the biomass was grown on the land eligible under this paragraph.

''(D) To be eligible for a renewable energy credit, the unit of electricity generated through the use of a renewable energy resource may be sold or may be used by the generator. If both a renewable energy resource and a nonrenewable energy resource are used to generate the electric energy, the Secretary shall issue credits based on the proportion of the renewable energy source used. The Secretary shall identify renewable energy credits by type of generation and by the State in which the generating facility is located.

''(4) In order to receive a renewable energy credit, the recipient of a renewable energy credit shall pay a fee, calculated by the Secretary, in an amount that is equal to the administrative costs of issuing, recording, monitoring the sale or exchange of, and tracking the credit or does not exceed five percent of the dollar value of the cred-

it, whichever is lower. The Secretary shall retain the fee and use it to pay these administrative costs.

''(5) When a generator sells electric energy generated through the use of a renewable energy resource to a retail electric supplier under a contract subject to section 210 of this Act, the retail electric supplier is treated as the generator of the electric energy for the purposes of this section for the duration of the contract.

''(e) CREDIT TRADING.—A renewable energy credit may be sold or exchanged by the entity to whom issued or by any other entity who acquires the credit. A renewable energy credit for any year that is not used to satisfy the minimum renewable generation requirement of subsection (a) for that year may be carried forward for use in another year.

''(f) CREDIT BORROWING.—At any time before the end of the calendar year, a retail electric supplier that has reason to believe that it will not have sufficient renewable energy credits to comply with subsection (a) may—

''(1) submit a plan to the Secretary demonstrating that the retail electric supplier will earn sufficient credits within the next 3 calendar years which, when taken into account, will enable the retail electric supplier to meet the requirements of subsection (a) for the calendar year involved; and

''(2) upon the approval of the plan by the Secretary, apply credits that the plan demonstrates will be earned within the next 3 calendar years to meet the requirements of subsection (a) for the calendar year involved.

''(g) ENFORCEMENT.—The Secretary may bring an action in the appropriate United States district court to impose a civil penalty on a retail supplier that does not comply with subsection (a). A retail electric supplier who does not submit the required number of renewable energy credits under subsection (a) is subject to a civil penalty of not more than 3 cents each for the renewable energy credits not submitted.

''(h) INFORMATION COLLECTION.—The Secretary may collect the information necessary to verify and audit—

''(1) the annual electric energy generation and renewable energy generation of any entity applying for renewable energy credits under this section,

''(2) the validity of renewable energy credits submitted by a retail electric supplier to the Secretary, and

''(3) the quantity of electricity sales of all retail electric suppliers.

''(i) ENVIRONMENTAL SAVINGS CLAUSE.—Incremental hydropower shall be subject to all applicable environmental laws and licensing and regulatory requirements.

''(j) EXEMPTION FOR ALASKA AND HAWAII.—This section shall not apply to any retail electric supplier in Alaska or Hawaii.

''(k) STATE SAVINGS CLAUSE.—This section does not preclude a State from requiring additional renewable energy generation in that State.

''(l) DEFINITIONS.—For purposes of this section—

''(1) The term 'incremental hydropower' means additional generation capacity achieved from increased efficiency or additions of new capacity at an existing hydroelectric dam.

''(2) The term 'Indian land' means—

''(A) any land within the limits of any Indian reservation, pueblo or rancheria,

''(B) any land not within the limits of any Indian reservation, pueblo or rancheria title to which was on the date of enactment of this paragraph either held by the United States for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to restriction by the United States against alienation,

"(C) any dependent Indian community, and

"(D) any land conveyed to any Alaska Native corporation under the Alaska Native Claims Settlement Act.

"(3) The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"(4) The term 'renewable energy' means electric energy generated by a renewable energy resource.

"(5) The term 'renewable energy resource' means solar thermal, photovoltaic, wind, geothermal, biomass (including organic waste, but not unsegregated municipal solid waste), or incremental hydropower facility or modification to an existing facility to co-fire biomass or to expand electricity production from an existing renewable facility that is placed in service on or after January 1, 2001.

''(6) The term 'retail electric supplier' means a person, State agency, or Federal agency that sells electric energy to an electric consumer.

''(7) The term 'retail electric supplier's base amount' means the total amount of electric energy sold by the retail electric supplier to electric customers during the most recent calendar year for which information is available, excluding electric energy generated by solar energy, wind, geothermal, biomass, or hydroelectric facility placed in service prior to January 1, 2001.

''(m) SUNSET.—Subsection (a) of this section expires December 31, 2015.''.

TITLE IX—STEELMAKING

SEC. 901. EXTENSION OF CREDIT FOR ELECTRICITY TO PRODUCTION FROM STEEL CONGENERATION.

(a) EXTENSION OF CREDIT FOR COKE PRODUCTION AND STEEL MANUFACTURING FACILITIES.—Section 45(c)(1) (defining qualified energy resources), as amended by section 507 of Public Law 106–170, is amended by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', and'', and by adding at the end the following:

''(E) steel congeneration.''.

(b) STEEL COGENERATION.—Section 45(c), is amended by adding at the end the following:

''(5) STEEL COGENERATION.—The term 'steel cogeneration' means the production of electricity and steam (or other form of thermal energy) from any or all waste sources in subparagraphs (A), (B), and (C) within an operating facility that produces or integrates the production of coke, direct reduced iron ore, iron, or steel provided that the cogeneration meets any regulatory energy-efficiency standards established by the Secretary, and only to the extent that such energy is produced from—

''(A) gases or heat generated from the production of metallurgical coke,

''(B) gases or heat generated from the production of direct reduced iron ore or iron, from blast furnace or direct ironmaking processes, or

''(C) gases or heat generated from the manufacture of steel.''.

(c) MODIFICATION OF PLACED IN SERVICE RULES FOR STEEL COGENERATION FACILITIES.—Section 45(c)(4) (defining qualified facility), as amended by section 507 of Public Law 106–170, is amended by adding at the end the following:

''(F) STEEL COGENERATION FACILITIES.—In the case of a facility using steel cogeneration to produce electricity, the term 'qualified facility' means any facility permitted to operate under the environmental requirements of the Clean Air Act Amendments of 1990 which is owned by the taxpayer and originally placed in service after December 31, 2000, and before January 1, 2006. Such a facility may be treated as originally placed in service when such facility was last upgraded to increase efficiency or generation capability. However, no facility shall be allowed a credit under this section for more than 10 years of production.''.

(d) CONFORMING AMENDMENTS.—

(1) The heading for section 45 is amended by inserting ''and waste energy'' after ''renewable''.

(2) The item relating to section 45 in the table of sections subpart D of part IV of subchapter A of chapter 1 is amended by inserting ''and waste energy'' after ''renewable''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

TITLE X—ENERGY EMERGENCIES

SEC. 1001. ENERGY POLICY AND CONSERVATION ACT AMENDMENTS.

(a) Title I of the Energy Policy and Conservation Act (42 U.S.C. 6211–6251) is amended—

(1) in section 166 (42 U.S.C. 6246), by inserting ''through 2003'' after ''2000.''

(2) in section 181 (42 U.S.C. 6251), by striking ''March 31, 2000'' each place it appears and inserting ''September 30, 2003''.

(b) Title II of the Energy Policy and Conservation Act (42 U.S.C. 6261–6285) is amended—

(1) in section 256(h) (42 U.S.C. 6276(h)), by striking the last sentence and inserting the following, ''For the purpose of carrying out this subsection, there are authorized to be appropriated such sums as may be necessary.''.

(2) in section 281 (42 U.S.C. 6285), by striking ''March 31, 2000'' each place it appears and inserting ''September 30, 2003''.

(c) AMENDMENT.—Title I of the Energy Policy and Conservation Act is amended by—

(1) redesignating part D as part E;

(2) redesignating section 181 as section 191; and

(3) inserting after part C the following new part D:

"PART D—NORTHEAST HOME HEATING OIL RESERVE

''ESTABLISHMENT

''SEC. 181. (a) Notwithstanding any other provision of this Act, the Secretary may establish, maintain, and operate in the Northeast a Northeast Home Heating Oil Reserve. A Reserve established under this part is not a component of the Strategic Petroleum Reserve established under part B of this title. A Reserve established under this part shall contain no more than 2 million barrels of petroleum distillate.

''(b) For the purposes of this part—

''(1) the term 'Northeast' means the States of Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, and New Jersey; and

''(2) the term 'petroleum distillate' includes heating oil and diesel fuel.

''AUTHORITY

''SEC. 182. To the extent necessary or appropriate to carry out this part, the Secretary may—

''(1) purchase, contract for, lease, or otherwise acquire, in whole or in part, storage and related facilities, and storage services;

''(2) use, lease, maintain, sell, or otherwise dispose of storage and related facilities acquired under this part;

''(3) acquire by purchase, exchange (including exchange of petroleum product from the Strategic Petroleum Reserve or received as royalty from Federal lands), lease, or otherwise, petroleum distillate for storage in the Northeast Home Heating Oil Reserve;

''(4) store petroleum distillate in facilities not owned by the United States;

''(5) sell, exchange, or otherwise dispose of petroleum distillate from the Reserve established under this part; including to maintain the quality or quantity of the petroleum distillate in the Reserve or to maintain the operational capability of the Reserve.

''CONDITIONS FOR RELEASE; PLAN

''SEC. 183. The Secretary may drawdown the Reserve only upon a finding by the President that there is a severe energy supply interruption. A 'severe energy supply interruption' may be deemed to exist—

''(1) if the President determines that a severe increase in the price of heating oil has resulted from such emergency situation;

''(2) if the President finds that (1) a circumstance, other than that described in subsection (a) exists that constitutes a regional supply shortage of significant scope or duration; and (2) action taken under this subsection would assist directly and significantly in reducing the adverse impact of such shortage.

''(3) DEFINITION.—For purposes of this section 'severe increase in the price of heating oil' means—

''(A) the price differential between crude oil, as reflected in the spot price from a published index, and No. 2 heating oil, as reported in the Energy Information Administration's retail price data for the Northeast, increases by more than 50 percent over its five year seasonal rolling average, and continues for 10 consecutive days; and

''(B) The price differential continues to increase during the most recent week for which price information is available.

''(4) The Secretary shall conduct a continuing evaluation of the residential price data supplied by

the Energy Information Administration for the Northeast and data on crude oil prices from published sources.

''(5) After consultation with the heating oil industry, the Secretary shall determine procedures to be used during a drawdown of the Reserve. The procedures shall ensure that:

''(A) the petroleum distillate is sold through a competitive process; and

''(B) in all sales or exchanges, the Secretary receives revenue or its equivalent in petroleum distillate that provides the Department with full market value.

''(6) Within 45 days of the date of the enactment of this section, the Secretary shall transmit to the President and, if the President approves, to the Congress a plan describing—

''(A) the acquisition of storage and related facilities or storage services for the Reserve;

''(B) the acquisition of petroleum distillate for storage in the Reserve;

''(C) the anticipated methods of disposition of petroleum distillate from the Reserve; and

''(D) the estimated costs of establishment, maintenance, and operation of the Reserve.

''NORTHEAST HOME HEATING OIL RESERVE ACCOUNT

''SEC. 184. (a) Upon a decision of the Secretary of Energy to establish a Reserve under this part, the Secretary of the Treasury shall establish in the Treasury of the United States an account known as the 'Northeast Home Heating Oil Reserve Account' (referred to in this section as the 'Account').

''(b) The Secretary of the Treasury shall deposit in the Account any amounts appropriated to the Account and any receipts from the sale, exchange, or other disposition of petroleum distillate from the Reserve.

''(c) The Secretary of Energy may obligate amounts in the Account to carry out activities under this part without the need for further appropriation, and amounts available to the Secretary of Energy for obligation under this section shall remain available without fiscal year limitation.

''EXEMPTIONS

''SEC. 185. An action taken under this part is not subject to the rulemaking requirements of section 523 of this Act, section 501 of the Department of Energy Organization Act, or section 553 of title 5, United States Code; and

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be

necessary to carry out part D of title I of the Energy Policy and Conservation Act.''.

SEC. 1002. ENERGY CONSERVATION PROGRAMS FOR SCHOOLS AND HOSPITALS.

Title III of the Energy Policy and Conservation Act (42 U.S.C. 6325) is amended as follows:

''SEC. 365 (f). For the purpose of carrying out this part there are authorized to be appropriated such sums as may be necessary.''.

SEC. 1003. STATE ENERGY PROGRAMS.

Title III of the Energy Policy and Conservation Act (42 U.S.C. 6371f) is amended as follows:

''SEC. 397. For the purpose of carrying out this part, there are authorized to be appropriated such sums as may be necessary.

SEC. 1004. ANNUAL HOME HEATING READINESS PROGRAM.

(a) IN GENERAL.—Part A of title I of the Energy Policy and Conservation Act (42 U.S.C. 6211 et seq.) is amended by adding at the end the following:

''ANNUAL HOME HEATING READINESS

''(a) IN GENERAL.—The Secretary, in conjunction with the Administrator of the Energy Information Agency, shall coordinate with all interested states on an annual basis a program to assess the adequacy of supplies for natural gas, heating oil and propane and develop joint rec-

ommendations for responding to regional shortages or price spikes.

''(b) On or before September 1 of each year, the Secretary, acting through the Administrator of the Energy Information Agency, shall submit to Congress a Home Heating Readiness Report on the readiness of the natural gas, heating oil and propane industries to supply fuel under various weather conditions, including rapid decreases in temperature.

''(c) CONTENTS.—The Home Heating Readiness Report shall include—

''(1) estimates of the consumption, expenditures, and average price per MMBtu or gallon of natural gas, heating oil and propane for the upcoming period of October through March for various weather conditions, with special attention to extreme weather, and various regions of the country;

''(2) an evaluation of—

''(A) global and regional crude oil and refined product supplies;

''(B) the adequacy and utilization of refinery capacity;

''(C) weather conditions;

''(D) the refined product transportation system;

''(E) market inefficiencies; and

''(F) any other factor affecting the functional capability of the natural gas, heating oil industry and propane industry that has the potential to affect national or regional supplies and prices;

''(3) recommendations on steps that the Federal, State, and local governments can take to prevent or alleviate the impact of sharp and sustained increases in the price of natural gas, heating oil and propane; and

''(4) recommendations on steps that companies engaged in the production, refining, storage, transportation of heating oil or propane, or any other activity related to the heating oil industry or propane industry, can take to prevent or alleviate the impact of sharp and sustained increases in the price of heating oil and propane.

''(d) INFORMATION REQUESTS.—The Secretary may request information necessary to prepare the Home Heating Readiness Report from companies described in subsection (b)(4).''.

(b) CONFORMING AND TECHNICAL AMENDMENTS.—The Energy Policy and Conservation Act is amended—

(1) in the table of contents in the first section (42 U.S.C. prec. 6201), by inserting after the item relating to section 106 the following:

''Sec. 107. Major fuel burning stationary source.
''Sec. 108. Annual home heating readiness report.''; and

(2) in section 107 (42 U.S.C. 6215), by striking ''SEC. 107. (a) No Governor'' and inserting the following:

''SEC. 107. MAJOR FUEL BURNING STATIONARY SOURCE.

''(a) No Governor''.

SEC. 1005. SUMMER FILL AND FUEL BUDGETING PROGRAMS.

(a) IN GENERAL.—Part C of title II of the Energy Policy and Conservation Act (42 U.S.C. 6211 et seq.) is amended by adding at the end the following:

''SEC. 273. SUMMER FILL AND FUEL BUDGETING PROGRAMS.

''(a) DEFINITIONS.—In this section:

''(1) BUDGET CONTRACT.—The term 'budget contract' means a contract between a retailer and a consumer under which the heating expenses of the consumer are spread evenly over a period of months.

''(2) FIXED-PRICE CONTRACT.—The term 'fixed-price contract' means a contract between a retailer and a consumer under which the retailer charges the consumer a set price for propane, ker-

osene, or heating oil without regard to market price fluctuations.

''(3) PRICE CAP CONTRACT.—The term 'price cap contract' means a contract between a retailer and a consumer under which the retailer charges the consumer the market price for propane, kerosene, or heating oil, but the cost of the propane, kerosene, or heating oil may not exceed a maximum amount stated in the contract.

''(b) ASSISTANCE.—At the request of the chief executive officer of a State, the Secretary shall provide information, technical assistance, and funding—

''(1) to develop education and outreach programs to encourage consumers to fill their storage facilities for propane, kerosene, and heating oil during the summer months; and

''(2) to promote the use of budget contracts, price cap contracts, fixed-price contracts, and other advantageous financial arrangements;

to avoid severe seasonal price increases for and supply shortages of those products.

''(c) PREFERENCE.—In implementing this section, the Secretary shall give preference to States that contribute public funds or leverage private funds to develop State summer fill and fuel budgeting programs.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

''(1) $25,000,000 for fiscal year 2001; and

''(2) such sums as are necessary for each fiscal year thereafter.

''(e) INAPPLICABILITY OF EXPIRATION PROVISION.—Section 281 does not apply to this section.''

(b) CONFORMING AMENDMENT.—The table of contents in the first section of the Energy Policy and Conservation Act (42 U.S.C. prec. 6201) is amended by inserting after the item relating to section 272 the following:

''Sec. 273. Summer fill and fuel budgeting programs.''.

SEC. 1006. USE OF ENERGY FUTURES FOR FUEL PURCHASES.

(a) HEATING OIL STUDY.—The Secretary shall conduct a study—

(1) to ascertain if the use of energy futures and options contracts could provide cost-effective protection from sudden surges in the price of heating oil (including number two fuel oil, propane, and kerosene) for governments, consumer cooperatives, and other organizations that purchase heating oil in bulk to market to end use consumers in the Northeast (Maine, New Hampshire, Vermont, Massachusetts,

Rhode Island, Connecticut, New York, Pennsylvania, and New Jersey); and

(2) to ascertain how these entities may be most effectively educated in the prudent use of energy futures and options contracts to maximize their purchasing effectiveness, protect themselves against sudden or unanticipated surges in the price of heating oil, and minimize long-term heating oil costs.

(b) REPORT.—The Secretary, no later than 180 days after appropriations are enacted to carry out this Act, shall transmit the study required in this section to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. The report shall contain a review of prior studies conducted on the subjects described in subsection (a).

(c) PILOT PROGRAM.—If the study required in subsection (a) indicates that futures and options contracts can provide cost-effective protection from sudden surges in heating oil prices, the Secretary shall conduct a pilot program, commencing not later than 30 days after the transmission of the study required in subsection (b), to educate such governmental entities, consumer cooperatives, and other organizations on the prudent and cost-effective use of energy futures and options contracts to

increase their protection against sudden or unanticipated surges in the price of heating oil and increase the efficiency of their heating oil purchase programs.

(d) AUTHORIZATION.—There is authorized to be appropriated $3 million in fiscal year 2001 to carry out this section.

SEC. 1007. INCREASED USE OF ALTERNATIVE FUELS BY FEDERAL FLEETS.

Title IV of the Energy Policy and Conservation Act (42 U.S.C. 6374) is amended as follows: In Sec. 400AA(a)(3)(E), insert the following sentence at the end, ''Except that, no later than fiscal year 2003 at least 50 percent of the total annual volume of fuel used must be from alternative fuels.'', and in Sec. 400AA(g)(4)(B), after the words, ''solely on alternative fuel'', insert the words '', including a three wheeled enclosed electric vehicle having a VIN number''.

SEC. 1008. FULL EXPENSING OF HOME HEATING OIL AND PROPANE STORAGE FACILITIES.

(a) IN GENERAL.—Section 179(b) of the Internal Revenue Code of 1986 (relating to limitations) is amended by adding at the end the following:

''(5) FULL EXPENSING OF HOME HEATING OIL AND PROPANE STORAGE FACILITIES.—Paragraphs (1) and (2) shall not apply to section 179 property

which is any storage facility (not including a building or its structural components) used in connection with the distribution of home heating oil or liquefied petroleum gas.''.

TITLE XI—ENERGY EFFICIENCY

SEC. 1101. ENERGY SAVINGS PERFORMANCE CONTRACTS.

(a) Section 801(a)(1) of the National Energy Conservation Policy Act (42 U.S.C. 8287(a)(1)) is amended by—

(1) inserting ''and water'' after ''energy'' the first place it appears;

(2) striking ''that purpose'' and inserting ''these purposes'';

(3) inserting ''or water'' after ''energy'' the second place it appears;

(4) inserting ''or water conservation'' after ''energy'' the third place it appears; and

(5) inserting ''or water'' after ''energy'' the fourth place it appears.

(b) Section 801(a)(2)(A) of the National Energy Conservation Policy Act (42 U.S.C. 8287(a)(2)(A)) is amended by—

(1) inserting ''or water'' after ''energy'' the first place it appears; and

(2) inserting ''or water conservation'' after ''energy'' the next two places it appears.

(c) Section 801(a)(2)(B) of the National Energy Conservation Policy Act (42 U.S.C. 8287(a)(2)(B)) is amended by—

(1) inserting ''or water'' after ''energy'' each place it appears; and

(2) inserting ''energy or'' before ''utilities'' the second place it appears.

(d) Section 801(a)(2)(D)(iii) of the National Energy Conservation Policy Act (42 U.S.C. 8287(a)(2)(D)) is amended by striking ''$750,000'' and inserting ''$10,000,000''.

(e) Section 801(b)(1)(A) of the National Energy Conservation Policy Act (42 U.S.C. 8287(b)(1)(B)) is amended by inserting ''and water'' after ''energy''.

(f) Section 801(b)(1)(B) of the National Energy Conservation Policy Act (42 U.S.C. 8287(b)(1)(B)) is amended by—

(1) inserting ''or water'' after ''energy'' the first place it appears; and

(2) inserting ''or water'' after ''energy'' the second place it appears.

(g) Section 801(b)(2)(A) of the National Energy Conservation Policy Act (42 U.S.C. 8287(b)(2)(A)) is

amended by inserting ''or water'' after ''energy'' each place it appears.

(h) Section 801(b)(2)(C) of the National Energy Conservation Policy Act (42 U.S.C. 8287(b)(2)(C)) is amended by inserting ''or water'' after ''energy'' each place it appears.

(i) Section 801(b)(3) of the National Energy Conservation Policy Act (42 U.S.C. 8287(b)(3)) is amended by inserting ''or water'' after ''energy''.

(j) Section 801(c)(1) of the National Energy Conservation Policy Act (42 U.S.C. 8287(c)(1)) is repealed.

(k) Section 801(c)(2) of the National Energy Conservation Policy Act (42 U.S.C. 8287(c)) is amended by inserting ''or water'' after ''energy'' each place it appears.

(l) Section 802 of the National Energy Conservation Policy Act (42 U.S.C. 8287a.) is amended by inserting ''and water'' after ''energy''.

(m) Section 803 of the National Energy Conservation Policy Act (42 U.S.C. 8287b.) is amended by inserting ''and water'' after ''energy''.

(n) Section 804(2) of the National Energy Conservation Policy Act (42 U.S.C. 8287c.(2)) is amended in paragraph (a)(2) by inserting ''or water'' after ''energy'' each place it appears.

(o) Section 804(3) of the National Energy Conservation Policy Act (42 U.S.C. 8287c.(3)) is amended in paragraph (a)(3) by inserting ''or water'' after ''energy''.

(p) Section 804(4) of the National Energy Conservation Policy Act (42 U.S.C. 8287c.(3)) is amended to read as follows:

''(4) The term 'energy or water conservation measure' includes an 'energy conservation measure' as defined in section 551(4), or a 'water conservation measure,' which is a measure applied to a Federal building that improves water efficiency, is life cycle cost effective, and involves water conservation, water recycling or reuse, improvements in operation or maintenance efficiencies, retrofit activities or other related activities.''.

(q) The seventh paragraph under the heading ''Administrative Provisions, Department of Energy,'' in title II of the Act Making Appropriation for the Department of the Interior and Related Agencies for the Fiscal Year Ending September 30, 1999 is amended by inserting ''and water'' after ''energy'' each place it appears.

(r) Section 101(e) of Public Law 105–277 is amended by—

(1) inserting ''and water conservation'' after ''efficiency'' in the title; and

(2) inserting ''and water'' after ''energy'' each place it appears.

SEC. 1102. WEATHERIZATION.

(a) Section 414 of the Energy and Conservation and Production Act (42 U.S.C. 6865) is amended by inserting the following sentence in subsection (a): ''The application shall contain the state's best estimate of matching funding available from state and local governments and from private sources,'' after the words ''assistance to such persons''. And, by inserting the words, ''without regard to availability of matching funding'', after the words ''low-income persons throughout the States,''.

(b) Section 415 of the Energy and Conservation and Production Act (42 U.S.C. 6865) is amended—

(1) in subsection (a)(1) by striking the first sentence;

(2) in subsection (a)(2) by—

(A) striking ''(A)'',

(B) striking ''approve a State's application to waive the 40 percent requirement established in paragraph (1) if the State includes in its plan'' and inserting ''establish'', and

(C) striking subparagraph (B);

(3) in subsection (c)(1) by—

(A) striking ''paragraphs (3) and (4)'' and inserting ''paragraph (3)'',

(B) striking ''$1600'' and inserting ''$2500'',

(C) striking ''and'' at the end of subparagraph (C),

(D) striking the period and inserting ''; and'' in subparagraph (D), and

(E) inserting after subparagraph (D) the following new subparagraph: ''(E) the cost of making heating and cooling modifications, including replacement.'';

(4) in subsection (c)(3) by—

(A) striking ''1991, the $1600 per dwelling unit limitation'' and inserting ''2000, the $2500 per dwelling unit average'',

(B) striking ''limitation'' and inserting ''average'' each time it appears, and

(C) inserting ''the'' after ''beginning of'' in subparagraph (B); and

(5) by striking subsection (c)(4).

SEC. 1103. PUBLIC BENEFITS FUND.

(a) DEFINITIONS.—For purposes of this section—

(1) the term ''eligible public purpose program'' means a State or tribal program that—

(A) assists low-income households in meeting their home energy needs;

(B) provides for the planning, construction, or improvement of facilities to generate, transmit, or distribute electricity to Indian tribes or rural and remote communities;

(C) provides for the development and implementation of measures to reduce the demand for electricity; or

(D) provides for—

(i) new or additional capacity, or improves the efficiency of existing capacity, from a wind, biomass, geothermal, solar thermal, photovoltaic, combined heat and power energy source, or

(ii) additional generating capacity achieved from increased efficiency at existing hydroelectric dams or additions of new capacity at existing hydroelectric dams;

(2) the term ''fiscal agent'' means the entity designated under subsection (b)(2)(B);

(3) the term ''Fund'' means the Public Benefits Fund established under subsection (b)(2)(A);

(4) the term ''Indian tribe'' means any Indian tribe, band, nation, or other organized group or com-

munity, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and

(5) the term ''State'' means each of the States and the District of Columbia.

(b) PUBLIC BENEFITS FUND.—There is established in the Treasury of the United States a separate fund, to be known as the Public Benefits Fund. The Fund shall consist of amounts collected by the fiscal agent under subsection (e). The fiscal agent may disburse amounts in the Fund, without further appropriation, in accordance with this section.

(c) FISCAL AGENT.—The Secretary shall appoint a fiscal agent shall collect and disburse the amounts in the Fund in accordance with this section.

(d) SECRETARY.—The Secretary shall prescribe rules for:

(1) the determination of charges under subsection (e);

(2) the collection of amounts for the Fund, including provisions for overcollection or undercollection;

(3) the equitable allocation of the Fund among States and Indian tribes based upon—

(A) the number of low-income households in such State or tribal jurisdiction; and

(B) the average annual cost of electricity used by households in such State or tribal jurisdiction; and

(4) the criteria by which the fiscal agent determines whether a State or tribal government's program is an eligible public purpose program.

(e) PUBLIC BENEFITS CHARGE.—(1) As a condition of existing or future interconnection with facilities of any transmitting utility, each owner of an electric generating facility whose nameplate capacity exceeds five megawatts shall pay the transmitting utility a public benefits charge determined under paragraph (2), even if the generation facility and the transmitting facility are under common ownership or are otherwise affiliated. Each importer of electric energy from Canada or Mexico, as a condition of existing or future interconnection with facilities of any transmitting utility in the United States, shall pay this same charge for imported electric energy. The transmit-

ting utility common ownership or are otherwise affiliated. Each importer of electric energy from Canada or Mexico, as a condition of existing or future interconnection with facilities of any transmitting utility in the United States, shall pay this same charge for imported electric energy. The transmitting utility shall pay the amounts collected to the fiscal agent at the close of each month, and the fiscal agent shall deposit the amounts into the Fund as offsetting collections.

(2)(A) The Commission shall calculate the rate for the public benefits charge for each calendar year at an amount—

(i) equal to $3 billion per year, divided by the estimated kilowatt hours of electric energy to be generated by generators subject to the charge, but

(ii) not to exceed 1 mill per kilowatt-hour.

(B) Amounts collected in excess of $3 billion in a fiscal year shall be retained in the fund and the assessment in the following year shall be reduced by that amount.

(f) DISBURSAL FROM THE FUND.—

(1) The fiscal agent shall disburse amounts in the Fund to participating States and tribal governments as a block grant to carry out eligible public purpose programs in accordance with this subsection and rules prescribed under subsection (d).

(2)(A) The fiscal agent shall disburse amounts for a calendar year from the Fund to a State or tribal government in twelve equal monthly payments beginning two months after the beginning of the calendar year.

(B) The fiscal agent shall make distributions to the State or tribal government or to an entity designated by the State or tribal government to receive payments. The State or tribal government may designate a nonregulated utility as an entity to receive payments under this section.

(C) A State or tribal government may use amounts received only for the eligible public purpose programs the State or tribal government designated in its submission to the fiscal agent and the fiscal agent determined eligible.

(g) REPORT.—One year before the date of expiration of this section, the Secretary shall report to Congress whether a public benefits fund should continue to exist.

(h) SUNSET.—This section expires at midnight on December 31, 2015.''.

SEC. 1104. NATIONAL OIL HEAT RESEARCH ALLIANCE ACT DEFINITIONS.

In this section:

(1) ALLIANCE.—The term ''Alliance'' means a national oilheat research alliance established under section 104.

(2) CONSUMER EDUCATION.—The term ''consumer education'' means the provision of information to assist consumers and other persons in making evaluations and decisions regarding oilheat and other nonindustrial commercial or residential space or hot water heating fuels.

(3) EXCHANGE.—The term ''exchange'' means an agreement that—

(A) entitles each party or its customers to receive oilheat from the other party; and

(B) requires only an insubstantial portion of the volumes involved in the exchange to be settled in cash or property other than the oilheat.

(4) INDUSTRY TRADE ASSOCIATION.—The term ''industry trade association'' means an organization described in paragraph (3) or (6) of section 501(c) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of that Code and is organized for the purpose of representing the oilheat industry.

(5) NO. 1 DISTILLATE.—The term ''No. 1 distillate'' means fuel oil classified as No. 1 distillate by the American Society for Testing and Materials.

(6) NO. 2 DYED DISTILLATE.—The term ''No. 2 dyed distillate'' means fuel oil classified as No. 2 distillate by the American Society for Testing and Materials that is indelibly dyed in accordance with regulations prescribed by the Secretary of the Treasury under section 4082(a)(2) of the Internal Revenue Code of 1986.

(7) OILHEAT.—The term ''oilheat'' means—

(A) No. 1 distillate; and

(B) No. 2 dyed distillate;

that is used as a fuel for nonindustrial commercial or residential space or hot water heating.

(8) OILHEAT INDUSTRY.—

(A) IN GENERAL.—The term ''oilheat industry'' means—

(i) persons in the production, transportation, or sale of oilheat; and

(ii) persons engaged in the manufacture or distribution of oilheat utilization equipment.

(B) EXCLUSION.—The term ''oilheat industry'' does not include ultimate consumers of oilheat.

(9) PUBLIC MEMBER.—The term ''public member'' means a member of the Alliance described in section 105(c)(1)(F).

(10) QUALIFIED INDUSTRY ORGANIZATION.—The term ''qualified industry organization'' means the National Association for Oilheat Research and Education or a successor organization.

(11) QUALIFIED STATE ASSOCIATION.—The term ''qualified State association'' means the industry trade association or other organization that the qualified industry organization or the Alliance determines best represents retail marketers in a State.

(12) RETAIL MARKETER.—The term ''retail marketer'' means a person engaged primarily in the sale of oilheat to ultimate consumers.

(13) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(14) WHOLESALE DISTRIBUTOR.—The term ''wholesale distributor'' means a person that—

(A)(i) produces No. 1 distillate or No. 2 dyed distillate;

(ii) imports No. 1 distillate or No. 2 dyed distillate; or

(iii) transports No. 1 distillate or No. 2 dyed distillate across State boundaries or among local marketing areas; and

(B) sells the distillate to another person that does not produce, import, or transport No. 1 distillate or No. 2 dyed distillate across State boundaries or among local marketing areas.

(15) STATE.—The term 'State' means the several States, except the State of Alaska.

"SEC. 102. REFERENDA.

''(a) CREATION OF PROGRAM.—

''(1) IN GENERAL.—The oilheat industry, through the qualified industry organization, may conduct, at its own expense, a referendum among retail marketers and wholesale distributors for the establishment of a national oilheat research alliance.

''(2) REIMBURSEMENT OF COST.—The Alliance, if established, shall reimburse the qualified industry organization for the cost of accounting and documentation for the referendum.

''(3) CONDUCT.—A referendum under paragraph (1) shall be conducted by an independent auditing firm.

''(4) VOTING RIGHTS.—

''(A) RETAIL MARKETERS.—Voting rights of retail marketers in a referendum under paragraph (1) shall be based on the volume of oilheat sold in a State by each retail marketer in the calendar year previous to the year in which the referendum is conducted or in another representative period.

''(B) WHOLESALE DISTRIBUTORS.—Voting rights of wholesale distributors in a referendum under paragraph (1) shall be based on the volume of No. 1 distillate and No. 2 dyed distillate sold in a State by each wholesale distributor in the calendar year previous to the year in which the referendum is conducted or in another representative period, weighted by the ratio of the total volume or No. 1 distillate and No. 2 dyed distillate sold for nonindustrial commercial and residential space and hot water heating in the State to the total volume of No. 1 distillate and No. 2 dyed distillate sold in that State.

''(5) ESTABLISHMENT BY APPROVAL OF TWO-THIRDS.—

''(A) IN GENERAL.—Subject to subparagraph (B), on approval of persons representing

two-thirds of the total volume of oilheat voted in the retail marketer class and two-thirds of the total weighted volume of No. 1 distillate and No. 2 dyed distillate voted in the wholesale distributor class, the Alliance shall be established and shall be authorized to levy assessments under section 107.

''(B) REQUIREMENT OF MAJORITY OF RETAIL MARKETERS.—Except as provided in subsection (b), the oilheat industry in a State shall not participate in the Alliance if less than 50 percent of the retail marketer vote in the State approves establishment of the Alliance.

''(6) CERTIFICATION OF VOLUMES.—Each person voting in the referendum shall certify to the independent auditing firm the volume of oilheat, No. 1 distillate, or No. 2 dyed distillate represented by the vote of the person.

''(7) NOTIFICATION.—Not later than 90 days after the date of enactment of this title, a qualified State association may notify the qualified industry organization in writing that a referendum under paragraph (1) will not be conducted in the State.

''(b) SUBSEQUENT STATE PARTICIPATION.—The oilheat industry in a State that has not participated ini-

tially in the Alliance may subsequently elect to participate by conducting a referendum under subsection (a).

''(c) TERMINATION OR SUSPENSION.—

''(1) IN GENERAL.—On the initiative of the Alliance or on petition to the Alliance by retail marketers and wholesale distributors representing 35 percent of the volume of oilheat or weighted No. 1 distillate and No. 2 dyed distillate in each class, the Alliance shall, at its own expense, hold a referendum, to be conducted by an independent auditing firm selected by the Alliance, to determine whether the oilheat industry favors termination or suspension of the Alliance.

''(2) VOLUME PERCENTAGES REQUIRED TO TERMINATE OR SUSPEND.—Termination or suspension shall not take effect unless termination or suspension is approved by—

''(A) persons representing more than one-half of the total volume of oilheat voted in the retail marketer class and more than one-half of the total volume of weighted No. 1 distillate and No. 2 dyed distillate voted in the wholesale distributor class; or

''(B) persons representing more than two-thirds of the total volume of fuel voted in either such class.

''(d) CALCULATION OF OILHEAT SALES.—For the purposes of this section and section 105, the volume of oilheat sold annually in a State shall be determined on the basis of information provided by the Energy Information Administration with respect to a calendar year or other representative period.

''SEC. 103. MEMBERSHIP.

''(a) SELECTION.—

''(1) IN GENERAL.—Except as provided in subsection (c)(1)(C), the qualified industry organization shall select members of the Alliance representing the oilheat industry in a State from a list of nominees submitted by the qualified State association in the State.

''(2) VACANCIES.—A vacancy in the Alliance shall be filled in the same manner as the original selection.

''(b) REPRESENTATION.—In selecting members of the Alliance, the qualified industry organization shall make best efforts to select members that are representative of the oilheat industry, including representation of—

''(1) interstate and intrastate operators among retail marketers;

''(2) wholesale distributors of No. 1 distillate and No. 2 dyed distillate;

''(3) large and small companies among wholesale distributors and retail marketers; and

''(4) diverse geographic regions of the country.

''(c) NUMBER OF MEMBERS.—

''(1) IN GENERAL.—The membership of the Alliance shall be as follows:

''(A) One member representing each State with oilheat sales in excess of 32,000,000 gallons per year.

''(B) If fewer than 24 States are represented under subparagraph (A), 1 member representing each of the States with the highest volume of annual oilheat sales, as necessary to cause the total number of States represented under subparagraph (A) and this subparagraph to equal 24.

''(C) 5 representatives of retail marketers, 1 each to be selected by the qualified State associations of the 5 States with the highest volume of annual oilheat sales.

"(D) 5 additional representatives of retail marketers.

"(E) 21 representatives of wholesale distributors.

"(F) 6 public members, who shall be representatives of significant users of oilheat, the oilheat research community, State energy officials, or other groups knowledgeable about oilheat.

"(2) FULL-TIME OWNERS OR EMPLOYEES.—Other than the public members, Alliance members shall be full-time owners or employees of members of the oilheat industry, except that members described in subparagraphs (C), (D), and (E) of paragraph (1) may be employees of the qualified industry organization or an industry trade association.

"(d) COMPENSATION.—Alliance members shall receive no compensation for their service, nor shall Alliance members be reimbursed for expenses relating to their service, except that public members, on request, may be reimbursed for reasonable expenses directly related to participation in meetings of the Alliance.

"(e) TERMS.—

"(1) IN GENERAL.—Subject to paragraph (4), a member of the Alliance shall serve a term of 3 years,

except that a member filling an unexpired term may serve a total of 7 consecutive years.

''(2) TERM LIMIT.—A member may serve not more than 2 full consecutive terms.

''(3) FORMER MEMBERS.—A former member of the Alliance may be returned to the Alliance if the member has not been a member for a period of 2 years.

''(4) INITIAL APPOINTMENTS.—Initial appointments to the Alliance shall be for terms of 1, 2, and 3 years, as determined by the qualified industry organization, staggered to provide for the subsequent selection of one-third of the members each year.

''SEC. 104. FUNCTIONS.

''(a) IN GENERAL.—

''(1) PROGRAMS, PROJECTS; CONTRACTS AND OTHER AGREEMENTS.—The Alliance—

''(A) shall develop programs and projects and enter into contracts or other agreements with other persons and entities for implementing this title, including programs—

''(i) to enhance consumer and employee safety and training;

''(ii) to provide for research development, and demonstration of clean and efficient oilheat utilization equipment; and

''(iii) for consumer education; and

''(B) may provide for the payment of the costs of carrying out subparagraph (A) with assessments collected under section 107.

''(2) COORDINATION.—The Alliance shall coordinate its activities with industry trade associations and other persons as appropriate to provide efficient delivery of services and to avoid unnecessary duplication of activities.

''(3) ACTIVITIES.—

''(A) EXCLUSIONS.—Activities under clause (i) or (ii) of paragraph (1)(A) shall not include advertising, promotions, or consumer surveys in support of advertising or promotions.

''(B) RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACTIVITIES.—

''(i) IN GENERAL.—Research, development, and demonstration activities under paragraph (1)(A)(ii) shall include—

''(I) all activities incidental to research, development, and demonstra-

tion of clean and efficient oilheat utilization equipment; and

''(II) the obtaining of patents, including payment of attorney's fees for making and perfecting a patent application.

''(ii) EXCLUDED ACTIVITIES.—Research, development, and demonstration activities under paragraph (1)(A)(ii) shall not include research, development, and demonstration of oilheat utilization equipment with respect to which technically feasible and commercially feasible operations have been verified, except that funds may be provided for improvements to existing equipment until the technical feasibility and commercial feasibility of the operation of those improvements have been verified.

''(b) PRIORITIES.—In the development of programs and projects, the Alliance shall give priority to issues relating to—

''(1) research, development, and demonstration;

''(2) safety;

''(3) consumer education; and

''(4) training.

''(c) ADMINISTRATION.—

''(1) OFFICERS; COMMITTEES; BYLAWS.—The Alliance—

''(A) shall select from among its members a chairperson and other officers as necessary;

''(B) may establish and authorize committees and subcommittees of the Alliance to take specific actions that the Alliance is authorized to take; and

''(C) shall adopt bylaws for the conduct of business and the implementation of this title.

''(2) SOLICITATION OF OILHEAT INDUSTRY COMMENT AND RECOMMENDATIONS.—The Alliance shall establish procedures for the solicitation of oilheat industry comment and recommendations on any significant contracts and other agreements, programs, and projects to be funded by the Alliance.

''(4) VOTING.—Each member of the Alliance shall have 1 vote in matters before the Alliance.

''(d) ADMINISTRATIVE EXPENSES.—

''(1) IN GENERAL.—The administrative expenses of operating the Alliance (not including costs incurred in the collection of assessments under section 107) plus amounts paid under paragraph (2) shall not exceed 7 percent of the amount of assess-

ments collected in any calendar year, except that during the first year of operation of the Alliance such expenses and amounts shall not exceed 10 percent of the amount of assessments.

''(2) REIMBURSEMENT OF THE SECRETARY.—

''(A) IN GENERAL.—The Alliance shall annually reimburse the Secretary for costs incurred by the Federal Government relating to the Alliance.

''(B) LIMITATION.—Reimbursement under subparagraph (A) for any calendar year shall not exceed the amount that the Secretary determines is twice the average annual salary of 1 employee of the Department of Energy.

''(e) BUDGET.—

''(1) PUBLICATION OF PROPOSED BUDGET.—Before August 1 of each year, the Alliance shall publish for public review and comment a proposed budget for the next calendar year, including the probable costs of all programs, projects, and contracts and other agreements.

''(2) SUBMISSION TO THE SECRETARY AND CONGRESS.—After review and comment under paragraph (1), the Alliance shall submit the proposed budget to the Secretary and Congress.

''(3) RECOMMENDATIONS BY THE SECRETARY.—The Secretary may recommend for inclusion in the budget programs and activities that the Secretary considers appropriate.

''(4) IMPLEMENTATION.—The Alliance shall not implement a proposed budget until the expiration of 60 days after submitting the proposed budget to the Secretary.

''(f) RECORDS; AUDITS.—

''(1) RECORDS.—The Alliance shall—

''(A) keep records that clearly reflect all of the acts the transactions of the Alliance; and

''(B) make the records available to the public.

''(2) AUDITS.—

''(A) IN GENERAL.—The records of the Alliance (including fee assessment reports and applications for refunds under section 107(b)(4)) shall be audited by a certified public accountant at least once each year and at such other times as the Alliance may designate.

''(B) AVAILABILITY OF AUDIT REPORTS.—Copies of each audit report shall be provided to the Secretary, the members of the Alliance, and

the qualified industry organization, and, on request to other members of the oilheat industry.

''(C) Policies and procedures.—

''(i) IN GENERAL.—The Alliance shall establish policies and procedures for auditing compliance with this title.

''(ii) CONFORMITY WITH GAAP.—The policies and procedures established under clause (i) shall conform with generally accepted accounting principles.

''(g) PUBLIC ACCESS to ALLIANCE PROCEEDINGS.—

''(1) PUBLIC NOTICE.—The alliance shall give at least 30 days' public notice of each meeting of the Alliance.

''(2) MEETINGS OPEN TO THE PUBLIC.—Each meeting of the Alliance shall be open to the public.

''(3) MINUTES.—The minutes of each meeting of the Alliance shall be made available to and readily accessible by the public.

''(h) ANNUAL REPORT.—Each year the Alliance shall prepare and make publicly available a report that—

''(1) includes a description of all programs, projects, and contracts and other agreements under-

taken by the Alliance during the previous year and those planned for the current year; and

''(2) details the allocation of Alliance resources for each such program and project.

''SEC. 105. ASSESSMENTS.

''(a) RATE.—The assessment rate shall be equal to two-tenths-cent per gallon of No. 1 distillate and No. 2 dyed distillate.

''(b) COLLECTION RULES.—

''(1) COLLECTION AT POINT OF SALE.—The assessment shall be collected at the point of sale of No. 1 distillate and No. 2 dyed distillate by a wholesale distributor to a person other than a wholesale distributor, including a sale made pursuant to an exchange.

''(2) RESPONSIBILITY FOR PAYMENT.—A wholesale distributor—

''(A) shall be responsible for payment of an assessment to the Alliance on a quarterly basis; and

''(B) shall provide to the Alliance certification of the volume of fuel sold.

''(3) NO OWNERSHIP INTEREST.—A person that has no ownership interest in No. 1 distillate or No.

2 dyed distillate shall not be responsible for payment of an assessment under this section.

''(4) FAILURE TO RECEIVE PAYMENT.—

''(A) REFUND.—A wholesale distributor that does not receive payments from a purchaser for No. 1 distillate or No. 2 dyed distillate within 1 year of the date of sale may apply for a refund from the Alliance of the assessment paid.

''(B) AMOUNT.—The amount of a refund shall not exceed the amount of the assessment levied on the No. 1 distillate or No. 2 dyed distillate for which payment was not received.

''(5) IMPORTATION AFTER POINT OF SALE.—The owner of No. 1 distillate or No. 2 dyed distillate imported after the point of sale—

''(A) shall be responsible for payment of the assessment of the Alliance at the point at which the product enters the United States; and

''(B) shall provide to the Alliance certification of the volume of fuel imported.

''(6) LATE PAYMENT CHARGE.—The Alliance may establish a late payment charge and rate of interest to be imposed on any person who fails to

remit or pay to the Alliance any amount due under this title.

''(7) ALTERNATIVE COLLECTION RULES.—The Alliance may establish, or approve a request of the oilheat industry in a State for, an alternative means of collecting the assessment if another means is determined to be more efficient or more effective.

''(c) SALE FOR USE OTHER THAN AS OILHEAT.—No. 1 distillate and No. 2 dyed distillate sold for uses other than as oilheat are excluded from the assessment.

''(d) INVESTMENT OF FUNDS.—Pending disbursement under a program, project, or contract or other agreement the Alliance may invest funds collected through assessments, and any other finds received by the Alliance, only—

''(1) in obligations of the United States or any agency of the United States;

''(2) in general obligations of any State or any political subdivision of a State;

''(3) in any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

''(4) in obligations fully guaranteed as principal and interest by the United States.

''(e) STATE, LOCAL, AND REGIONAL PROGRAMS.—

''(1) COORDINATION.—The Alliance shall establish a program coordinating the operation of the Alliance with the operator of any similar State, local, or regional program created under State law (including a regulation), or similar entity.

''(2) FUNDS MADE AVAILABLE TO QUALIFIED STATE ASSOCIATIONS.—

''(A) IN GENERAL.—

''(i) BASE AMOUNT.—The Alliance shall make available to the qualified State association of each State an amount equal to 15 percent of the amount of assessments collected in the State.

''(ii) ADDITIONAL AMOUNT.—

''(I) IN GENERAL.—A qualified State association may request that the Alliance provide to the association any portion of the remaining 85 percent of the amount of assessments collected in the State.

''(II) REQUEST REQUIREMENTS.—A request under this clause shall—

''(aa) specify the amount of funds requested;

''(bb) describe in detail the specific uses for which the requested funds are sought;

''(cc) include a commitment to comply with this title in using the requested funds; and

''(dd) be made publicly available.

''(III) DIRECT BENEFIT.—The Alliance shall not provide any funds in response to a request under this clause unless the Alliance determines that the funds will be used to directly benefit the oilheat industry.

''(IV) MONITORING; TERMS, CONDITIONS, AND REPORTING REQUIREMENTS.—The Alliance shall—

''(aa) monitor the use of funds provided under this clause; and

''(bb) impose whatever terms, conditions, and reporting requirements that the Alliance considers necessary to ensure compliance with this title.

"SEC. 106. MARKET SURVEY AND CONSUMER PROTECTION.

''(a) PRICE ANALYSIS.—Beginning 2 years after establishment of the Alliance and annually thereafter, the Secretary of Commerce, using only data provided by the Energy Information Administration and other public sources, shall prepare and make available to the Congress, the Alliance, the Secretary of Energy, and the public, an analysis of changes in the price of oilheat relative to other energy sources. The oilheat price analysis shall compare indexed changes in the price of consumer grade oilheat to a composite of indexed changes in the price of residential electricity, residential natural gas, and propane on an annual average basis. For purposes of indexing changes in oilheat, residential electricity, residential natural gas, and propane prices, the Secretary of Commerce shall use a 5-year rolling average price beginning with the year 4 years prior to the establishment of the Alliance.

''(b) AUTHORITY TO RESTRICT ACTIVITIES.—If in any year the 5-year average price composite index of consumer grade oilheat exceeds the 5-year rolling average price composite index of residential electricity, residential natural gas, and propane in an amount greater than 10.1 percent, the activities of the Alliance shall be restricted to research and development, training, and safety matters. The Alliance shall inform the Secretary of Energy and the Congress of any restriction of activities under this sub-

section. Upon expiration of 180 days after the beginning of any such restriction of activities, the Secretary of Commerce shall again conduct the oilheat price analysis described in subsection (a). Activities of the Alliance shall continue to be restricted under this subsection until the price index excess is 10.1 percent or less.

"SEC. 107. COMPLIANCE.

''(a) IN GENERAL.—The Alliance may bring a civil action in United States district court to compel payment of an assessment under section 107.

''(b) COSTS.—A successful action for compliance under this section may also require payment by the defendant of the costs incurred by the Alliance in bringing the action.

"SEC. 108. LOBBYING RESTRICTIONS.

''No funds derived from assessments under section 107 collected by the Alliance shall be used to influence legislation or elections, except that the Alliance may use such funds to formulate and submit to the Secretary recommendations for amendments to this title or other laws that would further the purposes of this title.

"SEC. 109. DISCLOSURE.

''Any consumer education activity undertaken with funds provided by the Alliance shall include a statement

that the activities were supported, in whole or in part, by the Alliance.

"SEC. 110. VIOLATIONS.

"(a) PROHIBITION.—It shall be unlawful for any person to conduct a consumer education activity, undertaken with funds derived from assessments collected by the Alliance under section 107, that includes—

"(1) a reference to a private brand name;

"(2) a false or unwarranted claim on behalf of oilheat or related products; or

"(3) a reference with respect to the attributes or use of any competing product.

"(b) COMPLAINTS.—

"(1) IN GENERAL.—A public utility that is aggrieved by a violation described in subsection (a) may file a complaint with the Alliance.

"(2) TRANSMITTAL TO QUALIFIED STATE ASSOCIATION.—A complaint shall be transmitted concurrently to any qualified State association undertaking the consumer education activity with respect to which the complaint is made.

"(3) CESSATION OF ACTIVITIES.—On receipt of a complaint under this subsection, the Alliance, and any qualified State association undertaking the consumer education activity with respect to which the

complaint is made, shall cease that consumer education activity until—

"(A) the complaint is withdrawn; or

"(B) a court determines that the conduct of the activity complained of does not constitute a violation of subsection (a).

"(c) RESOLUTION BY PARTIES.—

"(1) IN GENERAL.—Not later than 10 days after a compliant is filed and transmitted under subsection (b), the complaining party, the Alliance, and any qualified State association undertaking the consumer education activity with respect to which the compliant is made shall meet to attempt to resolve the compliant.

"(2) WITHDRAWAL OF COMPLAINT.—If the issues in dispute are resolved in those discussions, the complaining party shall withdraw its complaint.

"(d) JUDICIAL REVIEW.—

"(1) IN GENERAL.—A public utility filing a complaint under this section, the Alliance, a qualified State association undertaking the consumer education activity with respect to which a complaint under this section is made, or any person aggrieved by a violation of subsection (a) may seek appropriate relief in United States district court.

''(2) RELIEF.—A public utility filing a complaint under this section shall be entitled to temporary and injunctive relief enjoining the consumer education activity with respect to which a complaint under this section is made until—

''(A) the complaint is withdrawn; or

''(B) the court has determined that what the consumer education activity complained of does not constitute a violation of subsection (a).

''(e) ATTORNEY'S FEES.—

''(1) MERITORIOUS CASE.—In a case in Federal court in which the court grants a public utility injunctive relief under subsection (d), the public utility shall be entitled to recover an attorney's fee from the Alliance and any qualified State association undertaking the consumer education activity with respect to which a complaint under this section is made.

''(2) NONMERITORIOUS CASE.—In any case under subsection (d) in which the court determines a complaint under subsection (b) to be frivolous and without merit, the prevailing party shall be entitled to recover an attorney's fee.

''(f) SAVINGS CLAUSE.—Nothing in this section shall limit causes of action brought under any other law.

"SEC. 111. SUNSET.

''This title shall cease to be effective as of the date that is 4 years after the date on which the Alliance is established.''.

TITLE XII—ELECTRICITY

SEC. 1201. COMPREHENSIVE INDIAN ENERGY PROGRAM.

(a) Title XXVI of the Energy Policy Act of 1992 (25 U.S.C. 3501–3506) is amended by adding after section 2606 the following new section—

"SEC. 2607. COMPREHENSIVE INDIAN ENERGY PROGRAM.

''(a) DEFINITIONS.—For purposes of this section—

''(1) 'Director' means the Director of the Office of Indian Energy Policy and Programs established by section 217 of the Department of Energy Organization Act; and

''(2) 'Indian land' means—

''(A) any land within the limits of an Indian reservation, pueblo, or ranchera;

''(B) any land not within the limits of an Indian reservation, pueblo, or ranchera whose title on the date of enactment of this section was held—

''(i) in trust by the United States for the benefit of an Indian tribe,

''(ii) by an Indian tribe subject to restriction by the United States against alienation, or

''(iii) by a dependent Indian community; and

''(C) land conveyed to an Alaska Native Corporation under the Alaska Native Claims Settlement Act.

''(b) INDIAN ENERGY EDUCATION, PLANNING AND MANAGEMENT ASSISTANCE.—(1) The Director shall establish programs within the Office of Indian Energy Policy and Programs to assist Indian tribes to meet their energy education, research and development, planning, and management needs.

''(2) The Director may make grants, on a competitive basis, to an Indian tribe for—

''(A) renewable, energy efficiency, and conservation programs;

''(B) studies and other activities supporting tribal acquisition of energy supplies, services, and facilities; and

''(C) planning, constructing, developing, operating, maintaining, and improving tribal electrical generation, transmission, and distribution facilities.

''(3) The Director may develop, in consultation with Indian tribes, a formula for making grants under this section. The formula may take into account the following—

''(A) total number of acres of Indian land owned by an Indian tribe;

''(B) total number of households on the tribe's Indian land;

''(C) total number of households on the Indian tribe's Indian land that have no electricity service or are underserved; and

''(D) financial or other assets available to the tribe from any source.

''(4) In making a grant under paragraph (2)(E), the Director shall give priority to an application received from an Indian tribe that is not served or served inadequately by an electric utility, as that term is defined in section 3(4) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602(4)), or by a person, State agency, or any other non-federal entity that owns or operates a local distribution facility used for the sale of electric energy to an electric consumer.

''(5) There are authorized to be appropriated to the Department of Energy such sums as may be necessary to carry out the purposes of this section.

''(c) APPLICATION OF BUY INDIAN ACT.—(1) An agency or department of the United States Government may give, in the purchase and sale of electricity, oil, gas, coal, or other energy product or by-product produced, converted, or transferred on Indian lands, preference, under section 23 of the Act of June 25, 1910 (25 U.S.C. 47) (commonly known as the ''Buy Indian Act''), to an energy and resource production enterprise, partnership, corporation, or other type of business organization majority or wholly owned and controlled by an Indian, a tribal government, or a business, enterprise, or operation of the American Indian Tribal Governments.

''(2) In implementing this subsection, an agency or department shall pay no more for energy production than the prevailing market price and shall obtain no less than existing market terms and conditions.

''(d) This section does not—

''(1) limit the discretion vested in an Administrator of a Federal Power Administration to market and allocate Federal power, or

''(2) alter Federal laws under which a Federal Power Administration markets, allocates, or purchases power.''.

(b) OFFICE OF INDIAN POLICY AND PROGRAMS.—Title II of the Department of Energy Organization Act is amended by inserting the following after section 216:

''OFFICE OF INDIAN ENERGY POLICY AND PROGRAMS

''SEC. 217. (a) There is established within the Department an Office of Indian Energy Policy and Programs. This Office shall be headed by a Director, who shall be appointed by the Secretary and compensated at the rate equal to that of level IV of the Executive Schedule under section 5315 of Title 5, United States Code. The Director shall perform the duties assigned the Director under the Comprehensive Indian Energy Act and this section.

''(b) The Director shall provide, direct, foster, coordinate, and implement energy planning, education, management, conservation, and delivery programs of the Department that—

''(1) promote tribal energy efficiency and utilization;

''(2) modernize and develop, for the benefit of Indian tribes, tribal energy and economic infrastructure related to natural resource development and electrification;

''(3) preserve and promote tribal sovereignty and self determination related to energy matters and energy deregulation;

''(4) lower or stabilize energy costs; and

''(5) electrify tribal members' homes and tribal lands.

''(c) The Director shall carry out the duties assigned the Secretary under title XXVI of the Energy Policy Act of 1992 (25 U.S.C. 3501 et seq.).''.

(c) CONFORMING AMENDMENT.—Section 2603(c) of the Energy Policy Act of 1992 (25 U.S.C. 3503(c)) is amended to read as follows:

''(c) There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.''.

(d) The Table of Contents of the Department of Energy Act is amended by inserting after the item relating to section 216 the following new item:

''217. Office of Indian Energy Policy and Programs.''.

(e) Section 5315 of title 5, United States Code, is amended by inserting ''Director, Office of Indian Energy Policy and Programs, Department of Energy.'' after ''Director, Office of Science, Department of Energy.''.

SEC. 1202. INTERCONNECTION.

Title II of the Federal Power Act is further amended by adding after section 210 (16 U.S.C. 824i) the following:

"SEC. 210A. INTERCONNECTION OF DISTRIBUTED GENERATION FACILITIES.

''(a) RULEMAKING AUTHORITY.—Not later than one year after the date of enactment of this section, the Commission shall adopt rules to ensure the interconnection of distributed generation facilities to local distribution facilities of an electric utility.

''(b) INTERCONNECTION AUTHORITY.—Upon the application of the owner or operator of a distributed generation facility, the Commission may issue an order requiring the physical connection of the local distribution facilities of an electric utility with the distributed generation facility of the applicant.

''(c) STATE AUTHORITY.—Any interconnection ordered under this section shall be subject to regulation by the appropriate State commission.

''(d) DEFINITION.—As used in this section, the term 'distributed generation facility' means—

''(1) a small-scale electric power generation facility that is designed to serve customers at or near the facility, or

''(2) a facility using a single fuel source to produce at the point of use either electric or mechanical power and thermal energy.''.

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